HOUSE OF REPRESENTATIVES—*Wednesday, August 12, 1992*

The House met at 9 a.m.

The Chaplain, Reverend James David Ford, D.D., offered the following prayer:

We pray, O God, that our actions and our words will promote the way of honesty and respect, and not be means for selfish advantage or personal gain. May we receive Your gifts with gratitude for our moment in life and for our responsibility to be faithful for the blessing we have received. Bless us this day and every day. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

PLEDGE OF ALLEGIANCE

The SPEAKER. Will the gentleman from Illinois [Mr. POSHARD] please come forward and lead the House in the Pledge of Allegiance?

Mr. POSHARD led the Pledge of Allegiance as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Hallen, one of its clerks, announced that the Senate had passed without amendment joint resolutions of the House of the following titles:

H.J. Res. 411. Joint resolution to designate the week of September 13, 1992, through September 19, 1992, as "National Rehabilitation Week"; and

H.J. Res. 507. Joint resolution to approve the extension of nondiscriminatory treatment with respect to the products of the Republic of Albania.

The message also announced that the Senate had passed a bill, a joint resolution and a concurrent resolution of the following titles, in which the concurrence of the House is requested:

S. 3163. An act to amend the Federal Food, Drug, and Cosmetic Act to coordinate Federal and State regulation of wholesale drug distribution, and for other purposes;

S.J. Res. 242. Joint resolution to designate the week of September 13, 1992, through September 19, 1992, as "National Rehabilitation Week"; and

S. Con. Res. 135. Concurrent resolution providing for a conditional recess or adjournment of the Senate from Wednesday, August 12, 1992, until Tuesday, September 8, 1992, and a conditional adjournment of the House on the legislative day of Wednesday, August 12, 1992, until Wednesday, September 9, 1992.

ANNOUNCEMENT BY THE SPEAKER

The SPEAKER. The Chair announces that he will entertain 10 requests for 1-minute speeches from Members on each side.

THE UNITED STATES NEEDS JOBS BUT ONLY THE RIGHT KIND

(Mr. MAZZOLI asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MAZZOLI. Mr. Speaker, in 1988 President Bush said that he would create in his first term 15 million jobs. I believe the statistics show that he is now 14 million short of that goal. But based on the cover story in this current issue of Fortune magazine, even if the President had created 15 million jobs, he may not have done the country a favor because the jobs we are now creating here in the United States are low skill, low pay, low benefit jobs. The high skill, high wage, high benefit jobs are being sent abroad. It suggests, therefore, that despite the fact that our current national unemployment rate of 7.8 percent, which is unacceptable, at home in Kentucky, it is 6.7 percent, still too high, that the level of anxiety today is more than it was a few years ago when the unemployment rate was 10.8 percent. We know that something deeply different is afoot in our country. Something is changing the nature of our jobs.

So, Mr. Speaker, today the President will announce completion of the North American Free-Trade Agreement. That is wonderful news. But we certainly do not want that agreement to do anything more to add to the anxiety of the American people and to deepen their problem with low pay, low skill, low benefit jobs.

NORTH AMERICAN FREE-TRADE AGREEMENT

(Mr. KOLBE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. KOLBE. Mr. Speaker, the announcement this morning that negotiators from the United States, Mexico, and Canada have reached a basic agreement on the long sought free-trade pact between our countries is, indeed, good news.

It is good news for American consumers who will have more choices and lower prices. It is good news for American workers, because there will be more jobs created in this country, manufacturing goods and providing services for export to Mexico. It is good news for the environment, because it generates an unprecedented spirit of cooperation to solve our many problems along the border. And it is good news for all Americans who seek an improved relationship with our neighbor to the South.

There will be ample time for us in the months ahead to examine the specifics of this agreement. For now, we should acknowledge the perseverance of our negotiators and the leadership of Presidents Bush and Salinas and Prime Minister Mulroney. Without their determination and dedication, we would not be standing on the edge of a new era of expanded trade and cooperation between our three countries.

THE BLACK LUNG BENEFITS ACT

(Mr. POSHARD asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. POSHARD. Mr. Speaker, one of the great health problems in this country involves coal miners with black lung disease.

The House Education and Labor Committee is moving legislation to help these miners and their families—help Congress intended them to have when it first passed the Black Lung Benefits Act.

Sadly, far too many men and women have not only been forced to live and die with this disease, but they have done it without disability benefits they deserve.

The growth of this country was powered by the coal these miners brought up out of the belly of the Earth. Many of these people in Illinois and the other coal States of our country are suffering terribly from those many years in the dark and dusty mines.

I urge the House to take up their cause, follow the lead of the Education and Labor Committee, and make a difference in the lives of these American workers by passing this important legislation.

FREE-TRADE AGREEMENT CREATES JOBS—IN MEXICO

(Mr. TRAFICANT asked and was given permission to address the House

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for 1 minute and to revise and extend his remarks.)

Mr. TRAFICANT. Mr. Speaker, those are not roses near the White House. That must be marijuana because President Bush seems stoned. The President signed the Free-Trade Agreement with Mexico, and he said it is going to create jobs.

I agree, my colleagues. There will be a record number of jobs created—in Mexico. In America there will be unemployment lines from Chicago to New York, Los Angeles to Frisco.

Mr. Speaker, since this fast track started, Zenith moved to Mexico, Smith-Corona moved to Mexico. There is not a television made in America, not a typewriter made in America. There is not a VCR made in America, not a telephone made in America.

I say, "Folks, it's getting so bad that you won't even send your phone bill to Ma Bell. You'll start writing a check to Taco Bell."

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. MAZZOLI). The Chair would remind Members that under the House rules it is not permissible to characterize the President in any personally demeaning fashion, and I am sure the Members will follow that admonition.

THOSE "DAMN YANKEES!"

(Mr. GOSS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GOSS. Mr. Speaker, you may remember the play "Damn Yankees"—about the team that had it all. That phrase rings especially true for citizens of growth States these days—when we see our tax dollars funneled into places that are losing, not gaining, population. For years Florida and other growth States have lamented the unfairness of the process by which Federal resources are apportioned. And we take solace in every base we can steal—the other day the Governor of my State wrote to me about the good news that Florida is now 49th of the 50 States instead of dead last when it comes to return for our money. Not quite a home run. The census was supposed to provide a true reflection of population trends but it clearly fell short. I am delighted that the census folks are thinking about adjusting the 1990 head-count using statistical data. It is just common sense—why continue to channel Florida's tax dollars to fund more than 70 Government programs for "those Yankees" when so many of them have long since moved to Florida and are happily living there. I am one of them, so I know.

□ 0910

A NEW KIND OF BALANCED BUDGET

(Mr. TAUZIN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. TAUZIN. Mr. Speaker, yesterday 41 Members of the House joined me in introducing a new plan to implement a balanced budget for America.

Now, you say, "What's new? There have been many plans to implement balanced budgets. None of them have ever happened."

This is a different one. This is one that addresses the central issue of why Americans would like or would enjoy a balanced budget, as opposed to liking the kind of spending that Congress customarily does for American citizens.

This plan accomplishes a balanced budget not by cutting spending but by freezing spending, and once a surplus is achieved, it deposits into a national dividend trust fund all the corporate taxes that are collected in this country, 20 percent per year, until a national trust fund is established. Once it is established and once the American Government is in surplus, that dividend trust fund is then redistributed to the voters of America as a reward for supporting balanced budgets.

Much as Alaska rewards its citizens with its royalty trust fund for supporting development in Alaska, the dividend trust fund would reward Americans for supporting candidates for Congress who support and vote for balanced budgets and surpluses in our American system.

Mr. Speaker, it is a plan that can work. It is one that should pass.

WHILE THE DEMOCRATS MOAN

(Mr. BALLENGER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BALLENGER. Mr. Speaker, while the Democrats fiddle and stall, and moan and groan, President Bush is working to bring peace to the world and more jobs to the United States.

Today the President announces the formation of the world's largest free-trade zone.

This agreement will create 175,000 net new American jobs by 1995.

The Democratic response will be to fiddle and stall.

Yesterday, the President approved $10 billion in loans for Israel—just one more step toward a Mideast peace.

The Democrats will moan and groan.

Mr. Speaker, George Bush accomplishes more in most days for peace and prosperity than Bill Clinton has in his lifetime.

The choice is clear: For peace and prosperity—President Bush.

AMERICAN WORKERS DESPERATE AS UNEMPLOYMENT FIGURES SOAR

(Ms. DELAURO asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. DELAURO. Mr. Speaker, it is almost 1 year since the President vetoed the first emergency unemployment benefits bill. That veto led to another, and another. Before it was over the President had made an impression on our people that a hundred campaign speeches today will not change.

With one veto, the administration signaled the limits of its compassion and concern for the millions of Americans who are still without work.

The sad fact is the situation is not improving. Last week, it was reported in Connecticut that our State had lost more than 20,000 jobs in the 3 months between April and June. Twenty-thousand people who feel the pain of no work, the fear of no health care. These are desperate people. Thousands of families who are looking to Washington—who are looking anywhere—for leadership. But they cannot find it.

This administration promised our Nation 30 million new jobs when it entered office. A promise that rings hollow in the unemployment lines in Connecticut and across the Nation.

Mr. Speaker, it is time for an administration that understands the everyday fears of working families. An administration with a real plan to put people to work. An administration that will keep its promises and begin to restore the faith of Americans in their Government.

JOB CREATION PROSPECTS BRIGHTEN WITH THE NORTH AMERICAN FREE-TRADE AGREEMENT SIGNING

(Mr. DREIER of California asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DREIER of California. Mr. Speaker, in response to my friend, the gentlewoman from Connecticut, and others who have talked about the fact that we have seen this morning the President participate in the signing of one of the most historic agreements that the world has ever witnessed, we clearly have President Bush leading the way in job creation.

Contrary to what the naysayers say, the establishment of a North American Free-Trade Agreement will, according to nearly every single independent analysis, create hundreds of thousands of new jobs, not in Mexico but in the United States of America.

So, Mr. Speaker, I urge my colleagues to look closely at this agreement and realize that those who are trying to stick the heads of the United States of America into the sand are

clearly being Neanderthal. Let us move ahead with a fair and balanced North American Free-Trade Agreement to create jobs for Americans.

CLOSE EXAMINATION OF FREE-TRADE AGREEMENT URGED

(Mr. LEVIN of Michigan asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. LEVIN of Michigan. Mr. Speaker, we have already heard the slogans—we just heard them—about the North American Free-Trade Agreement, but the real issue is reality, not rhetoric, but what will really happen.

The President said that this is a good day for North America. The real issue is whether it is a good day for the United States, for our workers and for businesses. We have to look at key sectors like agriculture and like truck production where the tariff would come down 25 percent. What would that mean for American workers and American businesses?

The administration says that it will take care of the situation through worker adjustment, but its record in that area is abysmal. It talks about adequate transition. But the key question is transition to what? With the administration's terrible record on trade, it has the burden of proof, and the proof will be in the details.

Mr. Speaker, as a member of the Committee on Ways and Means, I am certain this agreement will be scrubbed from head to toe. American business and American workers deserve that.

DESTRUCTION AND GENOCIDE IN SERBIA DEMAND ACTION BY THE UNITED STATES

(Mr. ROHRABACHER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ROHRABACHER. Mr. Speaker, all Americans and, yes, all people in the free world and all good and decent people everywhere have been shocked at the death camps and at the tanks and artillery that have been shelling civilian targets in Sarajevo and, yes, throughout the Balkans.

Let us remember who is at fault. What we are talking about is destruction and death that is being brought about by the last Communist regime that holds power on the continent of Europe, and that regime is in Serbia. It is in Belgrade. What we are witnessing is genocide and aggression committed by that regime.

Now, there is a false dichotomy being offered the American people when they are being told that we cannot do anything about it unless we put hundreds of thousands of troops on the ground. We can do something about it. We do not have to have a Vietnam or a Persian Gulf. We can strike at targets in Serbia that will not take Serbian lives. If Serbia keeps shelling Sarajevo, providing the ammunition for this genocide, and providing the guards for the death camps, we can put Serbia and Belgrade into the dark by knocking out their electric plants. We can knock out their fuel storage plants, and we can destroy their navy and their air force with very little loss of life.

Mr. Speaker, it is time for America to act, for America to lead, and for America to stand up for morality and against this genocide.

THE ADMINISTRATION'S BROKEN PROMISES ON DEALING WITH THE DEFICIT

(Mr. HOAGLAND asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HOAGLAND. Mr. Speaker, clearly one of the single most troubling domestic problems we have is the deficit. The promise made by the Bush administration campaigning in New Hampshire in 1988 was that the President would balance the budget by 1993 without a tax increase or cuts in Social Security.

On another occasion he promised that he would cut the deficit by 40 percent in 1 year.

The problem is that every budget submitted by President Bush has included deficits. Let me give the figures. For fiscal year 1990 there was a $95 billion deficit in the budget submitted by the President; in 1991 it was $65 billion; in 1992 it was $281 billion; and in the budget submitted this January the deficit was $352 billion.

Now, this is a very serious broken promise. This administration has been feeding middle-class families promises for 12 years, promises of words and rhetoric, with no action and no leadership. Dealing with the deficit and with our stumbling economy takes courage and real leadership, not broken promises.

□ 0920

PORKER OF THE WEEK AWARD

(Mr. HEFLEY asked and was given permission to address the House for 1 minute.)

Mr. HEFLEY. Mr. Speaker, in the last few years, Congress has picked up a lot of nasty little habits that cost taxpayers big bucks.

To pad their legislative accomplishments, some Members of Congress have taken to introducing one commemorative bill after another in hopes of stroking every special interest group that knocks on their door. In fact, 30 percent of all public laws are commemoratives. That is why we now have a "National Tap Dance Day," a "National Ice Cream Month," an "Elvis Presley Day," a "Karate Kids Just Say No to Drugs Month" and a "National Quilting Day."

Don't get me wrong. I have nothing against Elvis Presley or people who enjoy quilting, and I think it is great that we have positive role models against drugs. I also love to indulge my taste buds with ice cream from time to time, but to get these bills passed, we spend close to $350,000 a year to do it.

There are two bills working their way through Congress that would create a commission to advise the President on proposals for national commemorative events. It would cost half as much and accomplish the same thing. Plus, it would give Congress more time to deal with the more difficult and important issues of the day.

Commemoratives get my vote for "Porker of the Week" award.

JOE DOHERTY; A CASE OF INJUSTICE

(Mr. ENGEL asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ENGEL. Mr. Speaker, on July 30, the British Secretary of State for Northern Ireland, Patrick Mayhew, announced that Joe Doherty would not be credited for the nearly 9 years he spent in prisons here in the United States. As a result, Mr. Mayhew indicated that Mr. Doherty would have to remain in British custody for 10 more years before a parole decision would be made.

Mr. Doherty was deported to British-controlled Ireland in February despite numerous court victories here in the United States. The Reagan and Bush administrations fought to have Mr. Doherty deported to the United Kingdom without the benefit of an asylum hearing which Mr. Doherty had requested.

Doherty's case has heaped injustice upon injustice. British refusal to count Doherty's 9 years in American jails is simply the latest. The British Government should know that I, at least, will not forget about Joe Doherty's plight. The struggle against injustice and prejudice in the north of Ireland will continue.

AMERICA NEEDS A PRESIDENT TO BRING AMERICAN JOBS TO AMERICANS

(Mr. APPLEGATE asked and was given permission to address the House for 1 minute.)

Mr. APPLEGATE. Mr. Speaker, the President of the United States announced the North American Free-Trade Agreement this morning. But if past performance is an example, we are going to continue to see the migration of American business and jobs.

Why is that? Because the fact is we cannot compare what we pay our work-

ers here to what they can pay in Mexico. They only pay $1.20, including benefits. They get practically no benefits, no pension, no health, no unemployment compensation, no workman's compensation. They have no OSHA regulations. They have nothing down there that we have here which we have to put on the cost of our products.

So how can we compete with them? We have 11 million Americans out of work right now because of the migration of businesses, and I see more of a loss.

Besides more businesses moving down to Mexico, we are going to continue to see them go to China and Japan because of the bad trade policy that we have in this country today.

In the first 5 months of this year, we saw 42,000 American businesses go down the tubes. That is an increase over last year. What this country needs is a President to bring back American jobs to Americans.

CONGRESS MISSING THE TRAIN

(Mr. BOEHNER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BOEHNER. Mr. Speaker, the train is leaving the station and Congress is not on it. All across the country, Americans are saying that they want a choice in where to send their children to school. Efforts have been underway in States and communities to allow parents to make the all so important decision of which school their children should attend.

However, Congress is not on this train. In fact, many in this body wish to derail it. This is unfortunate, because it is Congress and the Washington bureaucrats telling the people of this country what they can and cannot do.

Mr. Speaker, school choice is a movement that should be encouraged and endorsed by this body, because it is a movement of the people. It should be the decision of local communities and parents—not bureaucrats and certainly not the education establishment. If Americans want to implement school choice programs in their communities, who are we to stand in their way?

This afternoon, we will be considering the Neighborhood Schools Improvement Act. By the chairman's own admission, this bill is nothing more than cliches and show business. We need to improve it and make meaningful reforms, instead of the business as usual banalities in H.R. 4323.

Mr. Speaker, let us support the amendment of the gentleman from Texas [Mr. ARMEY] to give parents and communities real choice in where their children go to school.

THE FREEDOM OF CHOICE ACT

(Mr. HAYES of Illinois asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HAYES of Illinois. Mr. Speaker, I rise today to encourage this body to bring H.R. 25, the Freedom of Choice Act to the floor of the House of Representatives this week. The Freedom of Choice Act codifies Roe versus Wade, and prohibits States from placing undue restrictions on individual's exercise of the right of reproductive choice. In light of the disgraceful Supreme Court decision in Planned Parenthood versus Casey it is imperative that this body not delay action. The Casey ruling has shifted the deeply personal decision about abortion from American women and their families to politicians and the Government. What angers me most about so-called right-to-lifers, is their undeniable hypocrisy. These God-fearing individuals who supposedly speak for the life of the unborn child have done nothing to help support the millions of living, breathing children who exist in squalor and poverty in this country. No man has the right to tell a woman what she can or cannot do with her body. Men, not physically equipped to give birth, have no place in this argument. Congress has the power, the authority, and the obligation to move the Freedom of Choice Act, now, to protect the lives and health of American women. None of us can remain complacent as any State moves to deprive its citizens of freedom. The time for action is now. We must defend the right of America's women to make their own reproductive decisions.

AMERICA'S SENIORS DESERVE BETTER: NO MORE BROKEN PROMISES

(Mrs. LOWEY of New York asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. LOWEY of New York. Mr. Speaker, Social Security is a sacred trust. Medicare is an absolute necessity.

But as the President's advisors head to Houston, they are huddling around a plan to break the President's 1988 promise to protect Social Security and to, once again, take a meat ax to the Medicare Program. Our senior citizens deserve better.

For over 50 years, Americans have been paying into the Social Security trust funds, with the understanding that they would have the benefits they have paid for during their retirement years. The Social Security system is an enduring compact between generations that should not be broken.

Today, health care costs are out of control. They are taking a toll on everyone's budget. But they cause the greatest fear of all for senior citizens who worry about broken bones that take longer to mend and about Alzheimer's disease and other long term illnesses that can not only take an immense emotional and physical toll, but which can destroy their financial security as well. For over 25 years, Medicare has been an important, though incomplete, source of help. We cannot let that be destroyed.

Our seniors deserve better. Their lifetime commitments to their families and their nation should not be repaid with broken promises.

PROVIDING FOR CONSIDERATION OF H.R. 4323, NEIGHBORHOOD SCHOOLS IMPROVEMENT ACT

Mr. WHEAT. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 551 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 551

Resolved, That at any time after the adoption of this resolution the Speaker may, pursuant to clause 1 (b) of rule XXIII, declare the House resolved into the Committee of the Whole House on the State of the Union for consideration of the bill (H.R. 4323) to improve education for all students by restructuring the education system in the States. The first reading of the bill shall be dispensed with. Points of order against consideration of the bill for failure to comply with clause 8 of rule XXI are waived. General debate shall be confined to the bill and the amendments made in order by this resolution and shall not exceed one hour equally divided and controlled by the chairman and ranking minority member of the Committee on Education and Labor. After general debate the bill shall be considered for amendment under the five-minute rule. It shall be in order to consider as an original bill for the purpose of amendment under the five-minute rule the amendment in the nature of a substitute recommended by the Committee on Education and Labor now printed in the bill, modified by the amendments printed in section 2 of this resolution. The committee amendment in the nature of a substitute, as modified, shall be considered as read. Points of order against the committee amendment in the nature of a substitute, as modified, for failure to comply with clause 7 of rule XVI are waived. No amendment to the committee amendment in the nature of a substitute, as modified, shall be in order except the amendments printed in the report of the Committee on Rules accompanying this resolution and amendments en bloc described in this resolution. Amendments printed in the report may be offered only in the order printed and only by the named proponent or a designee, shall be considered as read when offered, shall not be subject to amendment, and shall not be subject to a demand for division of the question in the House or in the Committee of the Whole. Any time specified in the report for debate on an amendment shall be equally divided and controlled by the proponent and an opponent. All points of order against amendments printed in the report are waived. It shall be in order at any time for the chairman of the Committee on Education and Labor or his designee to offer amendments en bloc consisting of amendments printed in the report of the Committee on Rules or germane modifications thereof. Such amendments en bloc shall be considered as read, except that modifications shall

be reported; shall be debatable for forty minutes equally divided and controlled by the chairman and ranking minority member of the Committee on Education and Labor or their respective designees; shall not be subject to amendment; and shall not be subject to a demand for division of the question in the House or in the Committee of the Whole. All points of order against such amendments en bloc are waived. The original proponent of an amendment included in amendments en bloc may insert a statement in the Congressional Record immediately before the disposition of the amendments en bloc. At the conclusion of consideration of the bill for amendment the Committee shall rise and report the bill to the House with such amendments as may have been adopted. Any Member may demand a separate vote in the House on any amendment adopted in the Committee of the Whole to the bill or to the committee amendment in the nature of a substitute, as modified. The previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit with or without instructions. After passage of H.R. 4323, it shall be in order to take from the Speaker's table the bill S. 2 and to consider the Senate bill in the House. All points of order against the Senate bill and its consideration are waived. It shall then be in order to move to strike all after the enacting clause of the Senate bill and to insert in lieu thereof the provisions of H.R. 4323 as passed by the House. All points of order against that motion are waived. If the motion is adopted and the Senate bill, as amended, is passed, then it shall be in order to move to insist on the House amendment to S. 2 and to request a conference with the Senate thereon.

SEC. 2. The amendment in the nature of a substitute recommended by the Committee on Education and Labor now printed in the bill is modified as follows:

Page 13, strike line 14 and all that follows through page 14, line 2;

Page 14, line 3, strike "(d)" and insert in lieu thereof "(c)";

Page 14, line 7, strike "(e)" and insert in lieu thereof "(d)";

Page 89, strike line 15 and all that follows through page 90, line 7;

Page 90, line 8, strike "Sec. 8216" and insert in lieu thereof "Sec. 8215"; and

Page 103, strike line 1 and all that follows through page 105, line 16.

□ 0930

The SPEAKER pro tempore (Mr. SWIFT). The gentleman from Missouri [Mr. WHEAT] is recognized for 1 hour.

Mr. WHEAT. Mr. Speaker, for the purposes of debate only, I yield the customary 30 minutes to the gentleman from California [Mr. DREIER], pending which I yield myself such time as I may consume. During consideration of this resolution all time yielded is for the purpose of debate only.

Mr. Speaker, House Resolution 551 provides for consideration of H.R. 4323, the Neighborhood Schools Improvement Act. We have heard the Clerk read the details of the rule. It is essentially a fair rule that allows for a number of amendments that were presented to the Committee on Rules to be offered.

I should also add that it allows for two substitutes to be offered by Members of the other side as well as a motion to recommit with instructions.

It should also be noted that there will be a change. We expect to make a change after the passage of the rule that will allow additional time of 10 minutes each on the two substitutes, so there will be 40 minutes of debate time each on those substitutes instead of the 30 minutes as read.

House Resolution 551 allows for a completely free and flowing debate on a very vital and important subject, the Neighborhood Schools Improvement Act.

House Resolution 551 provides for the consideration of H.R. 4323, the Neighborhood Schools Improvement Act, allowing 1 hour of general debate to be equally divided between the chairman and ranking member of the Committee on Education and Labor.

The rule waives clause 8 of rule XXI—requiring a CBO cost estimate to be included in the bill—against the bill and clause 7 of rule XVI—prohibiting nongermane amendments—against the substitute as modified.

Furthermore, the rule makes in order the Education and Labor Committee amendment in the nature of a substitute, as modified by the amendment printed in section 2 of the rule, as an original bill for the purpose of amendment.

Only those amendments printed in the report accompanying the rule will be in order, to be debated as specified in the report, except that at any time the chairman of the Education and Labor Committee may offer en bloc amendments, debatable for 40 minutes, consisting of amendments in the report.

The amendments are not subject to amendment or to a division of the question and all points of order against the amendments and amendments en bloc are waived.

House Resolution 551 provides for one motion to recommit, with or without instructions. Finally, the rule makes in order a motion to take Senate bill 2 from the Speaker's table, strike all after the enacting clause and insert the text of H.R. 4323 as passed by the House, and a motion to insist on the House amendment to S. 2 and to request a conference with the Senate.

Mr. Speaker, as has often been noted, children are our most valuable heritage. Through them our tomorrows become reality. It is our responsibility to make the necessary investment in the education and support services that will enable our children to develop to their fullest potential and become the leaders tomorrow's world will require.

H.R. 4323 is designed to provide such an investment in our children and in the future. The measure focuses on academic achievement, flexible regulations encouraging innovation to increase students' learning, voluntary national standards for what children should know and systemic reform.

I am especially pleased that the parents as teachers program will be considered as an amendment today. Originating in Missouri and spreading to other States, this early childhood program has proven to be extraordinarily effective in assisting parents to become actively involved in their children's education, thereby increasing the children's learning and growth potential.

Mr. Speaker, I reserve the balance of my time.

Mr. DREIER of California. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I thank the gentleman from Missouri for yielding time to me.

Mr. Speaker, yesterday in the Committee on Rules the chairman of the Committee on Education and Labor, who I am happy to see is here on the House floor, the gentleman from Michigan [Mr. FORD] initially said that his preference would be for an open rule. But given the time constraints this week and the fact that Members on this side want to go to Houston and Members on the other side want to get back to campaigning or whatever, it was argued that some restrictions on amendments are necessary to ensure that we can complete consideration of this bill before we adjourn.

This, Mr. Speaker, is really, I believe, a bogus argument because if we look at this rule, it is the same kind of partisan and abusive gag rule that is traditionally imposed by the overwhelming 9 to 4 vote on the majority of the Committee on Rules.

The rule makes in order 11 Democrat amendments out of 15 that were submitted to our committee, but only 2 Republican amendments out of 14 that were submitted to the committee, are made in order.

If my colleagues on the other side of the aisle were so concerned about the out-of-control amendment process, there was a very simple solution. It would be to put a time limit on amendments. In a sense, as far as most of us are concerned on this side of the aisle, there is a time limit. And it is virtually zero.

The hardworking gentleman from Santa Rosa, the gentleman from California [Mr. RIGGS] will not be permitted to offer his parental responsibility amendment because it is considered controversial. There is concern on the other side that this amendment might actually stimulate a debate over our Nation's failed education policies, yet they make in order Democrat amendments which, according to the distinguished ranking member of the Committee on Education and Labor, the gentleman from Pennsylvania [Mr. GOODLING] are equally controversial.

The Committee on Rules also blocked consideration of amendments by my colleagues, the gentlemen from California, Messrs. DANNEMEYER, ROHRABACHER, DORNAN, and

CUNNINGHAM, the gentleman from Louisiana [Mr. HOLLOWAY], the gentleman from Minnesota [Mr. RAMSTAD] and the gentleman from Wyoming [Mr. THOMAS].

Frankly, Mr. Speaker, if I were in the Democrats shoes, I would not want a debate on this bill either, because it fails to offer any innovative reforms to improve educational achievement, promote accountability.

This bill should more appropriately be called the Pander to the National Education Association Act, because it will ensure continued bureaucratic inertia in our Nation's public school system.

Fortunately, Mr. Speaker, we can still make a difference by voting for the Amey substitute to fund school choice programs and direct Federal dollars to real reform activities. But there are many worthwhile amendments that, unfortunately, were not made in order and, therefore, Mr. Speaker, I am going to urge my colleagues to defeat this rule.

Mr. Speaker, I reserve the balance of my time.

Mr. WHEAT. Mr. Speaker, I yield myself such time as I may consume.

While I would not want to characterize the comments of my friends from both California and Missouri in any negative way, I would like to once again point out that while time is limited for debate on this bill, that it is very fair between both sides of the aisle. While there are several Democratic amendments, there are two Republican substitutes as well as the right to recommit with or without instructions.

And, of course, any of the amendments that the gentleman referred to may be included at the option of the other side in the motion to recommit with instructions and could have been included in any of the substitutes that were offered.

□ 0940

Mr. Speaker, I yield 1 minute to the gentleman from Michigan [Mr. KILDEE] the chairman of the subcommittee, who has worked very hard on this bill and who has produced an excellent bill.

Mr. KILDEE. Mr. Speaker, I thank the gentleman for yielding time to me.

Mr. Speaker, I rise in support of the rule. The rule makes in order both the Goodling and Armey substitutes.

These substitutes not only provide the Members with clear policy choices, but the Goodling substitute also incorporates additional amendments proposed independently by other Republican Members.

The rule ensures that Members have an opportunity to debate the key issues relating to education reform, and does so in a manner that also takes into account the short amount of time remaining before the recess.

I urge the adoption of the rule.

Mr. DREIER of California. Mr. Speaker, I am happy to yield 5 minutes to the gentleman from Jacobus, Mr. GOODLING, the very distinguished ranking member of the Committee on Education and Labor.

Mr. GOODLING. Mr. Speaker, I rise to support some of what was said by our ranking member of the Committee on Rules. I have a difficult time understanding the necessity for some of the en bloc amendments which we will talk about later. All of those, I think, with the exception of two, probably should have come up after we have had hearings and we talk about reauthoration of the elementary and secondary education programs next year.

Mr. Speaker, I am pleased to be able to introduce, because of the rule, a substitute, which I will call the Kildee-Goodling substitute, since it was we who spent hundreds of hours over a long period of time, 466 days, I believe, trying to incorporate into a bill some of the requests of the President of the United States.

Our whole idea was to bring about systemic change, so the staffs of both of the Members sat down and decided that these are ways we could bring about systemic change.

Unfortunately, what we will be faced with today is a block grant to do anything under the Sun we want to do, which by and large will be the same as we have always done, which has not helped us in the area of education. In fact, that is why we are being bashed about our educational system at the present time. Our hope was to bring about systemic change. If the Members vote for my substitute, that just might happen.

I cannot guarantee it will happen, but there is a darn sight better chance that it will happen than if the Members vote for the bill that will come from the majority. Again, I hope that my colleagues will look carefully at the original Kildee-Goodling neighborhood schools bill and give me your support when that time comes.

As I indicated, as far as the rule is concerned, we have worked out an agreement, I think, where there would be sufficient time to present our different ideas. I, too, like the gentleman from California [Mr. DREIER], am sorry that the choice was made that 7 of the 29 proposed amendments would come before us today. I supposed if 7 were coming, all 29 probably should have.

Again, I would ask the Members to listen carefully and to consider the substitute that I will offer.

Mr. DREIER of California. Mr. Speaker, I urge a "no" vote on the rule. I have no further requests for time, and I yield back the balance of my time.

Mr. WHEAT. Mr. Speaker, while there may be some differences on the rule—and I do thank the gentleman from Pennsylvania [Mr. GOODLING] for acknowledging that there is sufficient time to debate our differences on this bill—while there are some differences on the rule, I think I can speak on behalf of all of us in acknowledging the efforts of the chairmen of the committee and the subcommittee, the gentleman from Michigan, Mr. FORD, and Mr. KILDEE, as well as the ranking member, the gentleman from Pennsylvania [Mr. GOODLING], for their work on behalf of the Nation's children. Their work has been exceptional over the years, and I believe this bill is exceptional as the first part of a two-part strategy to reform the Nation's education system.

We look forward to the second part of the committee's work during the next Congress. I urge my colleagues to vote "yes" on the House resolution and on the underlying bill.

Mr. OWENS of Utah. Mr. Speaker, I rise in opposition to the rule. Yesterday, I testified before the Rules Committee on behalf of my amendment to this bill. Mine was a win-win amendment—schoolchildren in many States stood to gain by my amendment, and none would be slighted, but the amendment, to my deep regret, was not made in order.

This is an issue of great concern to me and of great importance to my State and to many other States which receive less chapter 1 money per student than other States. Chapter 1 funds are distributed in a very discriminatory manner, without a defensible theory for its unfairness. This formula discriminates against poor students in poor States, giving more money to the poor in richer States, and that is not right.

Mr. Speaker, because of this decision, many States will lose valuable education dollars this year. California alone will lose close to $170 million; Texas will lose $180 million; and my own State of Utah will lose out on a 55-percent increase in education dollars—$11 million this year—in Utah a very significant amount of money to help those disadvantaged students.

Under my amendment, States could either continue to use the current chapter 1 funding formula or use a revised formula which would substitute the State-per-pupil expenditure with a national-per-pupil expenditure, whichever is more beneficial. The revised formula would also use the new 1990 census figures. Therefore, not one single State would get less money; other States stood to gain.

I understand that the committee did not want to take up any formula changes this year—however, my amendment was a fair and equitable for the interim, to repair a serious and detrimental flaw.

As you know, in calculating chapter 1 funds, the poverty population of those between 5 to 17 years of age are taken into account. These figures are based on the decennial census.

It is now 1992—1992 and we are still using census figures from over a decade ago. This is an indefensible outrage—to use data now 12 years out of date. It only makes sense because current formulae provide more resources to some States than others, and those receiving the higher amounts don't want the rules tampered with. My amendment would have allowed States that have had a

population decrease to continue using 1980 census figures for 1992–93, while allowing States that have had a population increase to use the new 1990 census figures and the national per-pupil expenditure for calculating chapter 1 funding. This would be very fair to all.

Secretary Alexander has informed me that we are not using the 1990 census figures this year because the data from Puerto Rico had not been fully established in time. I ask you, should 23 States be deprived of an additional $550 million in education money because the Department of Education could not tabulate Puerto Rico's data in time? Should 23 States be deprived of money they truly need?

Mr. RAMSTAD. Mr. Speaker, I rise in opposition to the rule.

In light of the events in Los Angeles a few months ago, it is time for Congress to come up with bold and innovative solutions to the troubles facing our inner cities. Unfortunately, this rule denies us the opportunity to vote on an amendment to address this problem.

My amendment would have provided $50 million in educational opportunity zone grants for schools in our most economically and socially distressed communities to invest in comprehensive computer learning technology programs.

Learning technology emphasizes the teaching of fundamental skills through individualized instruction and develops self-directed learning skills, motivating students to learn by discovery. Moreover, learning technology enables teachers to monitor student progress in varied activities and helps them tailor instruction accordingly.

While computers will never, nor should ever, replace teachers in the classroom, they can and should be an exciting tool for teachers to use in the classroom. In fact, the opportunity to use this technology should attract more teachers to the schools that utilize it.

Children are fascinated by technology and the learning opportunities that accompany it. By making learning more enjoyable and less of a chore, we can help motivate even the most disinterested student. And studies show that when children are motivated to learn, they will learn.

Classroom attendance has improved dramatically when kids have access to this kind of learning technology. As one Washington, DC, principal has noted, the teachers in his school won't tell their kids which days they will go to the computer labs because only on those days is attendance 100 percent. Teachers have also been able to limit disciplinary problems by tying computer time to good behavior.

Mr. Speaker, it is vital that children in our lower income communities learn to work with computers, keeping pace with their peers in higher income school districts who have computers at school and at home. In today's age of technology, if all children are to have equal opportunities to learn and succeed, all children must be given the opportunity to work with computers.

My amendment would have earmarked $50 million of the funds authorized for the Neighborhood Schools Improvement State Grant Program toward developing education opportunity zones. But the Rules Committee has decided once again not to give us the opportunity to vote for an inner-city program that is desperately needed and will work.

I urge my colleagues to vote for education opportunity zones and against this restrictive rule.

Mr. RIGGS. Mr. Speaker, I rise in opposition to the rule for this bill, H.R. 4323, the Neighborhood Schools Improvement Act. I went before the Rules Committee yesterday with an amendment that would be instrumental in developing more parental responsibility with respect to their children's education. Needless to say, my amendment was not made in order.

Parents are failing to fulfill their critical role in developing their children's emotional and intellectual growth. If the education of this Nation's youth is to improve, parents' commitment to their children's educational needs must dramatically increase.

My amendment stated that in order for a local school district to receive education funds, the school district shall make available to parents a parental educational responsibility agreement between parents, teachers, and school. By signing this pledge, parents and schools vow to make every effort to do the best they can for the children. For example, children have to be well rested; they have to have a quiet place to study; and they have to develop studious behavior. Schools have responsibilities as well. They have to make every effort to welcome parents and offer suggestions to assist parents to adhere to their pledges. Many may take these goals for granted, but I know better—I know this is the exception rather than the rule.

Education does not just happen at school. From my past duties as president of my local school board, and as a father of three, I know precisely what my responsibilities are. The key determinant to the success of a child's education is the amount of parental involvement that takes place. The schoolday should not end when the last bell rings.

Mr. WHEAT. Mr. Speaker, I yield back the balance of my time, and I move the previous question on the resolution.

The previous question was ordered.

The SPEAKER pro tempore (Mr. SWIFT). The question is on the resolution.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. DREIER of California. Mr. Speaker, I object to the vote on the grounds that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 232, nays 153, not voting 49, as follows:

[Roll No. 382]

YEAS—232

Abercrombie	Annunzio	Beilenson
Anderson	Anthony	Bennett
Andrews (ME)	Applegate	Berman
Andrews (NJ)	Aspin	Bevill
Andrews (TX)	AuCoin	Bilbray
Blackwell	Hoagland	Payne (NJ)
Bonior	Hochbrueckner	Payne (VA)
Borski	Horn	Pease
Boucher	Hoyer	Pelosi
Boxer	Hubbard	Peterson (FL)
Brewster	Huckaby	Peterson (MN)
Brooks	Hughes	Pickett
Browder	Hutto	Pickle
Brown	Jacobs	Poshard
Bruce	Jefferson	Price
Bryant	Jenkins	Rahall
Bustamante	Johnson (SD)	Rangel
Byron	Johnston	Ray
Cardin	Jones (GA)	Reed
Carper	Jontz	Richardson
Carr	Kanjorski	Roe
Clement	Kennedy	Roemer
Coleman (TX)	Kennelly	Rose
Collins (IL)	Kildee	Rostenkowski
Collins (MI)	Kleczka	Rowland
Condit	Kopetski	Roybal
Cooper	Kostmayer	Russo
Costello	LaFalce	Sabo
Cox (IL)	Lancaster	Sanders
Coyne	Lantos	Sangmeister
Cramer	LaRocco	Sarpalius
Darden	Laughlin	Savage
de la Garza	Lehman (CA)	Sawyer
DeLauro	Lehman (FL)	Scheuer
Dellums	Levin (MI)	Schroeder
Derrick	Lewis (GA)	Schumer
Dicks	Lipinski	Serrano
Dingell	Lloyd	Sikorski
Dixon	Long	Sisisky
Donnelly	Lowey (NY)	Skaggs
Dooley	Luken	Skelton
Dorgan (ND)	Manton	Slattery
Downey	Martinez	Slaughter
Durbin	Matsui	Smith (IA)
Dwyer	Mavroules	Spratt
Early	Mazzoli	Stallings
Eckart	McCloskey	Stenholm
Edwards (CA)	McDermott	Stokes
Edwards (TX)	McHugh	Studds
Engel	McMillen (MD)	Swett
English	McNulty	Swift
Erdreich	Mfume	Synar
Espy	Miller (CA)	Tanner
Evans	Mineta	Tauzin
Fascell	Mink	Taylor (MS)
Fazio	Moakley	Thomas (GA)
Feighan	Mollohan	Thornton
Foglietta	Montgomery	Torres
Ford (MI)	Moody	Torricelli
Frank (MA)	Moran	Traficant
Frost	Mrazek	Unsoeld
Gejdenson	Murphy	Valentine
Gephardt	Murtha	Vento
Geren	Natcher	Visclosky
Gibbons	Neal (MA)	Volkmer
Gilman	Nowak	Washington
Glickman	Oakar	Waters
Gonzalez	Oberstar	Waxman
Gordon	Obey	Wheat
Guarini	Olin	Whitten
Hall (OH)	Olver	Williams
Hall (TX)	Ortiz	Wise
Hamilton	Owens (NY)	Wolpe
Harris	Pallone	Wyden
Hayes (IL)	Panetta	Yates
Hayes (LA)	Parker	Yatron
Hefner	Pastor	
Hertel	Patterson	

NAYS—153

Allard	Chandler	Franks (CT)
Allen	Clinger	Gallegly
Archer	Coble	Gallo
Armey	Coleman (MO)	Gekas
Baker	Combest	Gilchrest
Ballenger	Coughlin	Gillmor
Barrett	Cox (CA)	Goodling
Bateman	Crane	Goss
Bentley	Dannemeyer	Gradison
Bereuter	Davis	Grandy
Bilirakis	DeLay	Green
Bliley	Doolittle	Gunderson
Boehlert	Dornan (CA)	Hammerschmidt
Boehner	Dreier	Hancock
Broomfield	Duncan	Hansen
Bunning	Emerson	Hastert
Burton	Ewing	Hefley
Callahan	Fawell	Henry
Camp	Fields	Herger
Campbell (CA)	Fish	Hobson

Holloway	Miller (OH)	Roukema
Hopkins	Miller (WA)	Santorum
Horton	Molinari	Saxton
Houghton	Moorhead	Schaefer
Hunter	Morella	Schiff
Inhofe	Morrison	Sensenbrenner
James	Myers	Shaw
Johnson (CT)	Nichols	Shays
Johnson (TX)	Nussle	Shuster
Kasich	Orton	Skeen
Klug	Owens (UT)	Smith (NJ)
Kolbe	Oxley	Smith (OR)
Kyl	Packard	Smith (TX)
Lagomarsino	Paxon	Snowe
Leach	Penny	Spence
Lent	Petri	Stearns
Lewis (CA)	Porter	Stump
Lewis (FL)	Pursell	Sundquist
Lightfoot	Quillen	Taylor (NC)
Livingston	Ramstad	Thomas (CA)
Machtley	Ravenel	Thomas (WY)
Marlenee	Regula	Upton
Martin	Rhodes	Vander Jagt
McCandless	Ridge	Vucanovich
McCrery	Rinaldo	Walsh
McCurdy	Ritter	Weldon
McEwen	Roberts	Wolf
McGrath	Rogers	Wylie
McMillan (NC)	Rohrabacher	Young (FL)
Meyers	Ros-Lehtinen	Zeliff
Michel	Roth	Zimmer

NOT VOTING—49

Ackerman	Gaydos	Schulze
Alexander	Gingrich	Sharp
Atkins	Hatcher	Smith (FL)
Bacchus	Hyde	Solarz
Barnard	Ireland	Solomon
Barton	Jones (NC)	Staggers
Campbell (CO)	Kaptur	Stark
Chapman	Kolter	Tallon
Clay	Levine (CA)	Towns
Conyers	Lowery (CA)	Traxler
Cunningham	Markey	Walker
DeFazio	McCollum	Weber
Dickinson	McDade	Weiss
Dymally	Nagle	Wilson
Edwards (OK)	Neal (NC)	Young (AK)
Flake	Perkins	
Ford (TN)	Riggs	

□ 1015

Mr. McCURDY changed his vote from "yea" to "nay."

So the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

MAKING IN ORDER INCREASED TIME FOR DEBATE ON AMENDMENTS 7 AND 8 IN HOUSE REPORT 102–838 DURING CONSIDERATION OF H.R. 4323, NEIGHBORHOOD SCHOOLS IMPROVEMENT ACT

Mr. GOODLING. Mr. Speaker, I ask unanimous consent that, during consideration of the bill H.R. 4323 pursuant to House Resolution 551, the amendments numbered 7 and 8 in House Report 102–838 each may be debatable for 40 minutes, equally divided and controlled by the proponent and an opponent.

The SPEAKER pro tempore (Mr. SWIFT). Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

NEIGHBORHOOD SCHOOLS IMPROVEMENT ACT

The SPEAKER pro tempore. Pursuant to House Resolution 551 and rule XXVIII, the Chair declares the House in the Committee of the Whole House on the State of the Union for the consideration of the bill, H.R. 4323.

□ 1018

IN THE COMMITTEE OF THE WHOLE

Accordingly, the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 4323) to improve education for all students by restructuring the education system in the States, with Mr. PRICE in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. Pursuant to the rule, the bill is considered as having been read the first time.

Under the rule, the gentleman from Michigan [Mr. KILDEE] will be recognized for 30 minutes, and the gentleman from Pennsylvania [Mr. GOODLING] will be recognized for 30 minutes.

The Chair recognizes the gentleman from Michigan [Mr. KILDEE].

Mr. KILDEE. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, H.R. 4323 is the first piece of a two-part strategy for the Federal Government to help improve our Nation's schools.

It represents a major departure from the way that the Federal Government has assisted education in the past.

It is the first effort that seeks to use limited Federal funds as an incentive for public school districts to undertake systemic reform.

Historically, most education reforms have dealt with a single part of the system, such as improving testing, or have focused on special populations.

In contrast, the Neighborhood Schools Improvement Act emphasizes systemwide reform because sustained improvements will not occur without coordinated changes in all parts of the education system.

Federal assistance to encourage systemic reform is critical because school districts are often so financially pressed trying to operate their basic programs that there is no money for reform activities.

H.R. 4323 would fund reform activities in a minimum of one school district per congressional district.

Hopefully, many more districts can be funded depending on the level of appropriations.

However, all schools would benefit from systemic changes at the State level.

Systemic reform proposals would be developed at the State and local levels by panels made up of representatives of the many entities which have a stake in ensuring the availability of quality education programs.

These stakeholders include the Governor, State legislators, parents, and representatives of education, business, and other community leaders.

The stakeholder panels are charged with developing and implementing a reform package which includes identifying high goals for student achievement and ensuring that State and local curriculum, testing, and teacher training support the attainment of those goals.

Additionally, the State panel is to establish a process by which funds will be distributed to local school districts for their reform activities.

At the local level, the bill contains an illustrative list of the types of activities that can be included in a district's systemic reform package.

I wish to emphasize that this list is illustrative, not exclusive.

The activities include: the development and implementation of local education reform plans; new American schools; merit school systems where schools are rewarded for improved student performance; activities that supplement early childhood education programs and increase the readiness of young children to learn; site-based management; activities which maximize parental involvement; the coordination of health and social services with education; planning to improve the use of technology; and professional development for teachers and local administrators.

Another significant feature of this legislation and another departure from the past is the emphasis on achieving results with the expectation that rules and regulations will be relaxed as those results are achieved.

In another departure from the past, H.R. 4323 authorizes the development of voluntary national education standards.

These voluntary standards will set high goals toward which all students can strive.

The standards also can serve as a focal point for reform efforts throughout the Nation.

Additionally, consistent with the recommendations of the National Council on Education Standards and Testing, the bill formally establishes the national education goals panel to oversee the development of the voluntary national standards.

The bill approaches the issue of national standards and testing in a cautious way.

All the standards would be voluntary.

With regard to testing, the bill supports research in new forms of assessment and provides funds for the development of model assessments tied to the national standards for mathematics developed by the National Council of Teachers of Mathematics.

The development of model assessments is limited to mathematics because that is the only area where standards currently exist.

H.R. 4323 also authorizes a demonstration program which would authorize the waiver of certain Federal requirements at the preschool, elementary school, secondary school levels so that schools can experiment with new approaches to meeting the multiple education needs of disadvantaged children.

Waivers of regulations for certain national school lunch and child nutrition programs also would be authorized to simplify the administration of school lunch and child nutrition programs in elementary and secondary school.

The regulatory flexibility provisions do not change the money flowing to schools but allows flexibility within schools regarding its use without fear or auditors.

As I stated earlier, H.R. 4323 is the first piece of a two-part process for helping to improve our Nation's schools.

The second part of the strategy will take place in the next Congress when all the major Federal education programs come up for reauthorization.

Building on the H.R. 4323 framework, the committee will review and revise existing Federal education programs with an eye toward making them more effective as part of a coordinated Federal approach to improving the instruction and achievement of all students.

Mr. Chairman, I urge the passage of the bill.

□ 1020

Mr. Chairman, I reserve the balance of my time.

Mr. GOODLING. Mr. Chairman, I yield 3 minutes to the gentleman from Michigan [Mr. HENRY].

Mr. HENRY. I thank the gentleman for yielding.

Mr. Chairman, I, too, am from Michigan. I take it, however, that I view the crisis in education in this Nation somewhat differently than my distinguished colleague, the gentleman from Michigan [Mr. KILDEE].

The United States is in the midst of an educational crisis, and when we talk about global competitiveness, we had better address, with seriousness, the problem of educational competitiveness and educational achievement.

Mr. Chairman, K–12 spending in this country is higher as a percent of GNP than Japan and Germany. Expenditures per pupil in K–12 education in the United States are almost twice as much as in Japan, almost twice as much as in Germany, almost twice as much as in France. But in the key core competence areas and particularly in the area of mathematics and science, this Nation is woefully behind its global competitors.

Mr. Chairman, a recent international assessment of educational progress found that 13-year-old students fell behind Taiwan, South Korea, Hungary, the old U.S.S.R., Italy, Israel, Canada, France, Spain, and even in Yugoslavia, where they are in the throes of a civil war, American eighth graders fell behind Slovenia.

Mr. Chairman, the time has come for breaking the mold, for taking new and vigorous steps to restructure American schools. That is what the President of the United States has called for. That is what the Secretary of Education has called for. That is what the Governors of this country have called for on a bipartisan basis.

But here is what we got in this listless bill. I quote the chairman of the Committee on Education Labor:

"It's all cliches and show business," said Chairman William D. Ford, D-Mich. "It's not going to revolutionize anything."

I quote also the Secretary of Education, Mr. Alexander, who said:

This bill is worse than awful. The only ones who should be happy are those who want schools to stay forever just like they are.

Mr. Chairman, the question before us is not just a new entitlement or new general revenue sharing for K–12 schools in this country; the question before us is whether we are going to face the challenge of breaking the mold.

The question goes beyond the issue of choice. I happen to be one of those who supports choice in education. I support it because of the whole issue of parental accountability and the market dynamics. But that is not the fundamental issue.

Do not be distracted as we address that issue later into thinking that is the only thing we are talking about. We are talking about breaking-the-mold schools and the whole New American School Program, we are talking about waivers to potentially 83,000 school buildings in this country to get around the paperwork that overwhelms them. By Grand Rapids public schools have more reporting forms they have to fill out each year for State and Federal departments of education than it has days of structural activity each academic year. Can we get around this regulatory burden and begin to measure educational accomplishment based on output rather than input?

□ 1030

Mr. Chairman, the problem with this bill is that it focuses on inputs and not the revolutionary change in outputs this Nation so desperately needs.

Mr. KILDEE. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, the administration objected strongly to the higher education bill of the gentleman from Michigan [Mr. FORD], but in the dialog and process that took place they finally signed it with great ceremony because it was a good bill, and it is my hope that this bill, when it goes into conference and with dialog with the White House, we can work out any differences that might exist. I think that the substitute of the gentleman from Pennsylvania [Mr. GOODLING] is not that substantially different. It has problems with it, but we can work those out, and I look forward to working with Mr. GOODLING, with the Senate, with the Secretary of Education, and the President to try to bring any differences together.

Mr. Chairman, I yield 5 minutes to the gentleman from Ohio [Mr. SAWYER].

Mr. SAWYER. Mr. Chairman, I rise today in support of the legislation before us—the Neighborhood Schools Improvement Act.

I want to commend my chairman and friend DALE KILDEE for keeping the goal of systemic reform so clearly in focus and for resisting the temptation to build a proposal upon educational fadism.

You will hear comments today that this proposal is not sufficiently revolutionary and will not result in dramatic changes in American schools. This measure moves with care—not with drama.

The Neighborhood Schools Improvement Act offers something that President Bush's American 2000 proposal cannot hope to: it offers a series of straightforward mechanisms that can result in systemic reform in all school districts.

It is based on the principle that the quality of schools and the conditions under which children learn will improve only if entire communities are committed to shared goals.

It rejects the conceit that the education of our Nation's children should be based on market principles. I submit—that to accept the theory that forcing schools to compete—for students or for funds—will erode the fundamental American doctrine of universal public education for a large fraction of the next generation of American children.

Make no mistake, private school choice will not be the agent that helps lift the achievement levels of the largest numbers of individual American students—and that is what we want. It will serve only to insulate existing advantages.

I would like to focus on the one component of the neighborhood schools improvement bill that I think is crucially important. It does not rush headlong into yet another layer of tests in American classrooms.

The results of widescale, mandated, standardized testing in the States of Maryland and Pennsylvania were recently studied by two prominent educational researchers. I would like to read to you their final conclusion:

So far, we know that high-stakes testing does change schools—but frequently for the worse. It surely doesn't provide a foundation for constructive reform. Unless it is brought under control, especially in and by local

communities, the prospects for genuine top-to-bottom school reform may be stalled—for some time to come.

Unless testing is used as a diagnostic tool and not a punitive or political weapon, it is a system that is designed to fail.

The Neighborhood Schools Improvement Act recognizes this and seeks to put in place an alternative that will build a national system of content standards—so that we have a body of knowledge and skills that everyone agrees on. Then, only then, begin to build a system of testing and assessment that will give school systems meaningful information that will tell them where improvements need to be made. Content standards are be to completed in 5 years. This is not a long time.

At the same time the bill provides for expanded research on authentic assessments and for models for assessing national standards for mathematics. Based on the work of National Council of Teachers of mathematics. Mathematics is the only subject area in which there is an existing consensus on curriculum building. When you are building a bridge, the first thing you do is decide where you want to go. After that, you take the steps necessary to ensure materials and engineering standards. And then you test it before you open it for public use. As a taxpayer, you assume that the roads and bridges you drive on are linked, reliably, with the map you use to navigate.

Similarly, it does not make sense to hire teachers, put them in a classroom on the first day and say "here's the final exam, you are on your own, and you better measure up."

To what? What teachers need is a clear, well-marked path on which to guide their students through a body of knowledge upon which they can build an understanding of concepts and acquire an arsenal of skills. The current educational holy grail of widescale testing will not, by itself, create learning environments that encourage higher order thinking skills.

In the end, it remains true that what you measure is what you get. We need to decide first—and with care—what we want our children to know. We need to decide how to teach them—curriculum, teaching and learning material, technique and equipment. And then we'll know what we want to evaluate and test and how best to measure our children's success in learning—and our own success or failure in teaching them.

Mr. Chairman, again I would like to extend my admiration to my subcommittee chairman and his staff. This is a good, solid proposal. It is a proposal that is devoid of gimmicks and empty promises. I believe it is a foundation upon which we can build future improvements, including the work we will undertake when we reauthorize elementary and secondary education programs in the next Congress.

I urge the committee to approve the work of the subcommittee and to reject both the substitutes.

Mr. GOODLING. Mr. Chairman, I yield 2 minutes to the gentleman from Wyoming [Mr. THOMAS].

Mr. THOMAS of Wyoming. Mr. Chairman, I thank the gentleman from Pennsylvania [Mr. GOODLING] for this opportunity. I rise in support of the educational change, and specially the amendment offered by the gentleman from Pennsylvania [Mr. GOODLING] and to express disappointment with the bill that we will have before us today.

H.R. 4323 as reported contains a flexibility demonstration program that would allow 300 schools, specifically 20 schools in 15 States, the ability to apply for a waiver of certain requirements of Federal laws and regulations. The bill language allows these waivers in only four areas, and sets up a complicated list of exceptions and requirements.

First, innovation must come from the local and State level. After all, this is where the action is. Roughly 94 percent of the funding for education comes from these levels of government, and I'd argue more than 94 percent of the ideas come from the local level as well. What works in the inner city of Washington won't necessarily work in the plains of Wyoming, and we ought to recognize that.

Second, the key to innovation is flexibility. You can't on one hand tell schools to come up with a bunch of new, original, effective, break-the-mold ideas and then in the next breath qualify that by saying, "but these are the ideas we want to have, and these are the hoops we want you to jump through." It doesn't make sense.

I don't think that's the approach we ought to take. BILL GOODLING will offer a substitute later that I think is a good bill. One section in particular grabbed my attention, and I offered it as a separate amendment. Unfortunately, it was not made in order. My amendment was simple and straightforward. It would have opened up this waiver process to any school, local educational agency, or State that can demonstrate that these waivers are part of a systemwide education reform plan.

We're asking schools to be innovative, to find ways of being more efficient, and I think that is fair. But I hope we can agree on two things.

Unfortunately, our current system doesn't encourage innovation, and H.R. 4323 offers help to less than one-half of 1 percent of the schools in the United States. I'm disappointed the House won't have the chance to address this issue on its own merits, but this is part of the Goodling substitute and I hope we'll support this approach to reform.

In closing, let me just say how disappointing it is to see this business-as-usual bill come to the floor. This bill is calling for things we've been doing in Wyoming for years.

We've already set up a statewide plan for reform and are well on the way to implementing it. I will be supporting the AuCoin amendment later today that recognizes that States who have already begun this process deserve to take part in the program. It is just to bad we will be talking about a bill that does not ask, or even allow, local districts and schools to explore innovative ideas.

Mr. KILDEE. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, the gentleman from Wyoming [Mr. THOMAS] and I are not that far apart on this. I agree that education is a local function. It is a State responsibility, and it is a Federal concern. We try to keep that balance in this bill, and I think both of us would agree that is the balance we want to keep.

We also add some flexibility on the State level.

Mr. Chairman, I yield 5 minutes to the gentlewoman from New York [Mrs. LOWEY].

Mrs. LOWEY of New York. Mr. Chairman, I rise in strong support of this bill.

I would like to express my appreciation to Chairman FORD and Chairman KILDEE for their hard work on this legislation and for bringing a bill to the floor that lays the foundation for fundamental change.

As we get closer and closer to the election, both parties are trying to outdo each other in demanding change. But while everyone is talking about change, this bill makes it more than a slogan; it seeks to transform the way we think about education in this Nation.

We all know that the traditional Federal role in education has been restricted to the area of special needs. But as the evidence of a national education crisis—with potentially disastrous consequences for our economic future—has mounted, the President, the Nation's Governors, and a chorus of others have articulated a new role for the Federal Government: That of a leader in education reform. H.R. 4323 is the first solid proposal to turn all the talk about comprehensive reform into action. For the first time in our Nation's history, it gives the Federal Government a leading role in formulating education policy in this Nation.

But this innovative proposal goes much further. Recognizing that the failure of school reform over the past 15 years can be attributed primarily to its piecemeal nature, this bill strongly supports comprehensive, systemic reform. It calls on States and local communities to join in sweeping plans to transform all schools for all students. It should be noted that no other plan—from the administration or Congress—

envisions reform on this ambitious scale. While funding for this effort is admittedly limited, the bill lays a solid foundation on which we can build in the future.

The bill permits local communities considerable flexibility to design education reform plans that are tailored to their specific needs. Of the many reform techniques that are eligible for Federal funds under H.R. 4323, I would like to draw your attention to one that is of crucial importance: Coordination of education with health and social services.

If you speak to educators in your own congressional district, you will find that an overwhelming reason for the failure of many students lies in problems outside of the classroom: Poverty, inadequate nutrition or health care, drug or alcohol abuse, and child abuse or neglect. Educators find that more of their time is spent coping with these problems and less in actual instruction. But they are fighting a losing battle. As long as the current system for responding to these health and social service needs is fragmented and uncoordinated, at-risk students will continue to fail, and the education of all students will suffer.

Last year, a major report by the Committee for Economic Development called for a comprehensive, coordinated strategy of human investment that will "redefine education as a process that * * * encompasses the physical, social, emotional, and cognitive development of children." In other words, we need to coordinate the traditional role of the schools with key health and social services that are vital to a child's development.

This idea was first expressed legislatively in my bill, H.R. 812, which has more than 140 cosponsors in the House. Now, it has been incorporated into the Neighborhood Schools Improvement Act.

H.R. 4323 encourages the use of Federal reform funds for coordination of education with health and social services. In addition, the bill creates a flexibility demonstration program to allow local school districts to reduce regulations in exchange for a commitment to meet certain educational goals. A preference for grants under the flexibility program will be afforded to local districts which coordinate education and social services. These are extremely important provisions that will make a dramatic difference for students across the Nation.

Much more could be said of the virtues of this bill, but suffice it to say that the bill combines the following important elements:

A vision of the future of education in this Nation that is based on the knowledge that we are capable of excellence;

A comprehensive strategy for achieving that vision by reaching all students in all communities; and

Support for innovative reform techniques, such as the coordination of education with health and social services, that will make a real difference in our children's lives.

This unsung bill has a world to offer our Nation's children and our Nation's economy, and I would urge all of my colleagues to join in support of it.

□ 1040

Mr. GOODLING. Mr. Chairman, I yield 2 minutes to the gentleman from Ohio [Mr. BOEHNER].

Mr. BOEHNER. Mr. Chairman, the American people are angry at their Government today. They are concerned about their future and the future of their children and their grandchildren. As a result, they are calling for change, change in our Government, less redtape, less bureaucracy, less Government waste, and getting rid of ineffective Government programs. They want a Government that works with the American people, not against them.

One major concern among my constituents and, I expect, among others, is education. They simply want schools that will guarantee that each child that grows up in this great country will receive an education to help them in their future.

Four hundred and sixty-six days ago President Bush announced America 2000, a revolutionary program to bring real change to America's schools. Since then, 45 States and thousands of communities around this country have adopted the goals of America 2000. It is a program that encourages parents and communities to involve themselves in America's schools. It encourages us all to look at schools in a new light, in a broader context, with the whole concept of lifelong learning.

Many Americans may think that today we are debating America 2000, but we are not. Many Americans may think that we are discussing real school reform. Well, we are not. This is just another charade on the American people. The bill before us is all about protecting the status quo, the education establishment. There is no real reform in this bill. Even the chairman of the full committee admitted that this bill isn't much. There is no choice, there is no flexibility, there is no accountability, and there is no money. The bill protects the education establishment and protects those who have a stranglehold on America's schools.

The Armey substitute, which we will be considering later this afternoon, is real reform. It has choice, it has flexibility, and it has accountability. Let us just say no to the bill we have before us today and let us have real change and real reform in America's schools by supporting the Armey amendment.

Mr. KILDEE. Mr. Chairman, may I inquire, how much time remains?

The CHAIRMAN. The gentleman from Michigan [Mr. KILDEE] has 11 minutes remaining, and the gentleman from Pennsylvania [Mr. GOODLING] has 22 minutes remaining.

Mr. GOODLING. Mr. Chairman, I yield 2½ minutes to the gentleman from Texas [Mr. ARMEY].

Mr. ARMEY. Mr. Chairman, I thank the gentleman from Pennsylvania for yielding me time.

Mr. Chairman, developmental psychologists, if they study the history of this legislation over the past 466 days, are going to have a field day. This legislation, in the manner in which it comes to the floor, is going to be a perfect case study in what the psychologists call defiant compliance. That is what we call it when a parent requests or suggests that a child do something that is good for the child and good for the family and the child in defiant compliance does something that seems similar but is, in fact, markedly different that is harmful to himself and to the family.

This will also be a great case study in peer pressure and how peer pressure might encourage aberrance in behavior. It will be said, Mr. Chairman, that today we are bringing the President's bill out and giving him what he has asked for. That is bull.

The fact of the matter is the President introduced his bill on May 23, 1991. It was introduced by the gentleman from Illinois [Mr. MICHEL], the minority leader of the House, and 57 Republican cosponsors, and that is exactly what one would expect to be the sponsorship of the President's bill in the House.

□ 1050

The bill we are looking at today was introduced on February 26, 1992, by the gentleman from Michigan [Mr. KILDEE] for himself, the gentleman from Michigan [Mr. FORD], and a handful of other Democrats. Not one single Republican is a sponsor or cosponsor of this legislation.

This legislation in no way can be characterized as the President's bill. It is an anathema to the President's bill. It will do exactly opposite for the schoolchildren of America than was intended by the President.

This bill is brought up today because we are taking our August break. During that August break the President and the Republican Party will have their convention in Houston. The sponsors of this legislation, in the most militant partisanship, want today to pass what they think they can pass off as the President's bill, and then in defiant compliance, proclaim their dismay to the world that the President is not endorsing their work product.

Mr. Chairman, we will say more later about the bill of the Member from Michigan [Mr. FORD]. We will have a lively discussion. There will be no discussion today about the President's bill. That was left behind. That was spiked several months ago.

Mr. KILDEE. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, in response to a defiant compliance, I want to remind the body that the Congress is not a child in relationship to the President. It is President Bush, not Father Bush.

Mr. Chairman, I yield 2 minutes to the gentleman from Massachusetts [Mr. OLVER].

Mr. OLVER. Mr. Chairman, I rise today in support of H.R. 4323, the Neighborhood Schools Improvement Act. And I want to congratulate and thank my chairmen, WILLIAM FORD and DALE KILDEE for all of their hard work on this bill.

H.R. 4323 is the first step in the direction of nationwide systemic school reform guided and supported by Federal Government resources. This bill provides critical assistance to State and local school districts to plan and undertake system-wide reform. Each school district, with broad public participation, would establish new education standards, innovative curricula, assessment systems, and teacher and administrator training programs.

But while the funds available to local districts must be spent on reforms and innovations to implement the purposes of the act, the bill does not prescribe or mandate the specifics of a local reform program.

The key to the success of this legislation is in the phrase broad public participation. The board of stakeholders created in this legislation goes beyond the teachers, school administrators, local school boards and State boards of education who are empowered in each election, to broadly include parents, students, church groups, professional groups, fraternal groups and the many local businesses and business organizations that have an important stake in the education of students who are their future employees.

This new board must bring in fresh ideas, broaden input and provide for continuous renewal of the mandate for change if we are to sustain effective school reform.

The Neighborhood Schools Improvement Act also establishes a National Education Goals Panel to determine standards for both student performance and school accountability, and provides for research on the impact and content of these standards. And very importantly it focuses on identifying workforce skills students need, and incorporating them into the performance standards.

I believe this bill marries Federal resources with local know-how, a key component of education reform and I urge my colleagues to support it.

Mr. GOODLING. Mr. Chairman, I yield 3 minutes to the gentleman from Pennsylvania [Mr. RITTER].

Mr. RITTER. Mr. Chairman, the education of our young people is one of the most important things we can do in our country. Sadly, in too many places, we have been failing in that duty. And the results have impact in our communities, our workplaces, and our economy.

Unfortunately, the bill before us today will not revitalize our schools. Instead, we have a bill that spends nearly $1 billion to maintain the status quo and fund those same things which have given us so many troubled schools across America.

The Neighborhood Schools Improvement Act, with few exceptions, is based on the premise that education is simply a matter of dollars and cents; it assumes that each increment of funding creates an increment of learning. This fixation is devoid of reality.

In the past three decades, spending on education has risen steadily to a level unsurpassed in U.S. history. We currently spend over $413 billion—$248 going to primary and secondary education—a higher percentage of our gross national product, 7.5 percent, than any other industrial country.—more than Japan, more than Germany, more than so many of our toughest competitors.

Meanwhile, academic researchers have conducted study after study, trying to find evidence for the spending equals learning theory. They have not found it. In fact, just the opposite has been the case.

The national verbal SAT score has fallen to an all time low—18 points below 1967 levels and functional illiteracy in this Nation currently runs between 20 and 30 percent, compared to a high of 5 percent in other industrialized nations.

The earlier version of this legislation, H.R. 3320, represented at least a bipartisan congressional effort to reform education. It did not do everything but it was a step in the right direction.

Unfortunately, H.R. 3320 was returned to committee where it was weakened and reintroduced as H.R. 4323.

The Goodling substitute includes many of the President's America 2000 reform strategies that could transform our education system.

So many of us have witnessed bipartisan America 2000 efforts in our own districts. H.R. 3320 gave these programs a real boost. Too bad it was so weakened.

America 2000 seeks to create thousands of break-the-mold new American schools; help States create a voluntary national examination system; give teachers and principals more flexibility in the spending of Federal money; and, allow public school officials to decide whether some form of school choice fits their education needs. These are ways to deregulate what has become a straitjacketed system.

The Neighborhood Schools Improvement Act reflects nothing more than the views of those who fear change. The legislation before us will guarantee that only the most modest experiments, those the bureaucracy finds least threatening will be tried.

What are we getting for $1 billion? More of the same.

According to Mr. William Moloney, a school superintendent in my district, our—

> weakened condition of public education today relates to the straitjacket of excessive and inane regulation which has horrendously driven up costs at the same time it has driven out accountability, flexibility, and imagination. We have paved our way to perdition through the good intentions of a generation of mandates and regulations, and today our children are paying the price for our folly.

Today we have the opportunity to reform education in our Nation's schools or continue funding the status quo.

The CHAIRMAN. The Chair announces that the gentleman from Pennsylvania [Mr. GOODLING] has 16½ minutes remaining, and the gentleman from Michigan [Mr. KILDEE] has 9 minutes remaining.

Mr. GOODLING. Mr. Chairman, I yield 3 minutes to the gentleman from Wisconsin [Mr. KLUG].

Mr. KLUG. Mr. Chairman, 2 weeks from now 600 elementary students in Milwaukee will pack their backpacks, grab a lunch and head off to school. They represent the third year of Wisconsin's bold experiment in private school choice. A plan pushed by Wisconsin Gov. Tommy Thompson, a Republican, and Polly Williams, a Democrat who represents some of the poorer neighborhoods of the State.

Since it began the program has doubled in size.

Wisconsin's experimental choice plan has had an intriguing start.

In one recent survey 95 percent of parents in Milwaukee support the program, and its strongest support is in the low-income communities which it is designed to help.

Why? Because since it began truancy problems have dramatically diminished for the students who for the most part come from tough neighborhoods, and poor families.

Parental involvement has soared, and the families attitude towards school itself has shown marked improvement. These are the objective evaluations of a University of Wisconsin researcher hired to track the program.

Now I don't think choice has all the answers but I think it should be one of the options which States should be able to consider as we make $700 million available to remake American schools.

This is money designed for experimentation, for pilot programs which a local teacher or a local principal has always wanted to try, but could never find the cash to do it, from all black male schools in Detroit to the tech prep programs now in the design stage in a number of States.

The kind of proposals already spelled out by design teams from 700 local

communities including a proposal drafted by the University of Wisconsin, and one drafted by a design team of my own local educators and business leaders.

We can't allow the President and Education Secretary's, Lamar Alexander, plan for school innovation to be turned into revenue sharing, so that it's business as usual in American schools. Support the Goodling substitute. We need creativity, we need flexibility, and we need a Congress willing to reward risk like the groundbreaking program in Wisconsin.

I include for the RECORD an article, "School Choice on Trial."

SCHOOL CHOICE ON TRIAL

Publicly funded Education vouchers—the murky catchword is "school choice"—have been a staple of the conservative agenda ever since economist Milton Friedman first proposed them in 1962. There was the Alum Rock, Calif., voucher experiment in the Nixon era, the debate over tuition tax credits in the Reagan years and, coming out of the Bush White House, there are variations on the voucher theme.

While Congress and the courts have been unsympathetic to any transfer of public funds to parents for use in private or parochial schools, the states and the general public have not let go of the idea. Ballot initiatives and state legislative battles attest to the interest in choice, and Gallup polls record strong backing for it, particularly among minorities and urban residents. This spring, in a judicial departure, the Wisconsin Supreme Court upheld Milwaukee's limited but much-watched voucher program.

That court victory led this month to two attention-getting lawsuits brought on behalf of low-income parents in Los Angeles and Chicago, challenging the quality of the inner-city schools and demanding voucher remedies. The cases' legal precepts—alleged violations of state laws that guarantee such things as "an efficient system of high-quality public educational institutions" and the encouragement of "intellectual improvement"—are less noteworthy than the new ideological coloration of this litigation strategy organized by a nonprofit group calling itself the Institute for Justice. Gone is the purely economic rationale for school choice—that competition and the principles of the free market will improve the public schools. The new rationale is embedded in the language of class struggle, and it's decidedly more militant: Only school choice can "liberate disadvantaged parents and their children from inferior public schools. The buzzword from the plaintiffs' and from such reformers as Polly Williams, the sponsor of the Milwaukee voucher plan, is "empowerment" (a word heard often in Chicago, where hundreds of local school councils were created during a landmark reform effort).

It's impossible to counter what these people observe—that the public schools in the inner cities are separate and unequal places. Test scores are abysmally low, dropout rates approach or exceed 50 percent, violence impedes learning, and administrative costs siphon resources from the classrooms. It's also hard to refute the argument that many attempted reforms have failed—reforms involving substantial infusions of money. The plaintiffs, like those organizing the increasing number of school-financing suits that aim to equalize resources by forcing a redistribution of state funds, are turning to the courts for an all-out remedy. (A finance suit wouldn't have worked here—the per-pupil cost in Chicago is already higher than the state average.)

But choice, even if it were to survive the inevitable constitutional challenge, is unlikely to help much. There aren't enough private or parochial schools in either Los Angeles or Chicago or anyplace else to help more than a relatively small number of carefully chosen kids. What of the rest? Who will "liberate" them?

Controlled school-choice experiments nevertheless bear watching. If nothing else, one good voucher demonstration (which Alum Rock was not and Milwaukee is unlikely to be) would answer the nagging, much-fought-over questions about the effect of choice on the public schools, the cost of vouchers and the nature, selectivity and public accountability of new schools that are supposed to emerge in a more competitive environment. But choice is not the answer to the gross inequities that prevail among America's schools.

□ 1100

Mr. GOODLING. Mr. Chairman, I yield 3 minutes to the gentleman from Wisconsin [Mr. GUNDERSON].

Mr. GUNDERSON. Mr. Chairman, if I can rephrase an old adage that seems all too appropriate here this morning, it would be that when adults play politics with education, unfortunately it is the children who get trampled.

Therefore, if we look at the bills and the substitutes before us today, I have to tell my Republican colleagues that H.R. 4323 is a heck of a lot better bill than some of us want to admit. And I have to tell my Democratic colleagues that the Goodling substitute is not the Goodling substitute at all. It is the bipartisan bill originally passed out of our committee. And we all ought to vote for that, and we ought to move on.

I intend today to vote for the Goodling substitute, and I intend, if that fails, to vote for the bill on final passage because I still want to believe that this Congress is willing in a bipartisan way to work with the Senate, and I still want to believe that the Secretary of Education will want to work with us to develop a bipartisan bill to improve the quality of education in this country.

The reality is that between 1985 and the year 2000, we are looking at something like 15 million new jobs in this country that are going to require a high level of education in writing skills. The reality is that under today's projections, only 22 percent of our graduates in our school system will meet those reading and writing skills so necessary for employment.

So in the midst of a recession, this may be the most important jobs bill that we have in front of this Congress, and I regret that it has taken us this long. Because if we would have passed the bill shortly after October 1989, when the Governors and the President came up with their bipartisan education goals, if we would have passed this bill by the April 1 deadline of this year, when the Committee on Appropriations set aside $100 million for education reform, we would have been a long ways into dealing with States and communities in reforming their education programs.

I think we ought to talk a little bit about the reality of what we are doing here. To suggest that this is business as usual is just plain wrong on both counts. The reality is that both the Goodling substitute and the bill in front of us mandate that there be State educational reform plans. Even under the Democratic bill, every one of those reform plans have to be approved by the Secretary of Education before that State can continue on with their reform initiatives.

The reality is, both bills in front of us require that every local community must develop a local education reform plan before they can apply for any of those monies that come from the Federal Government down to the States. Both bills in a different way deal with national standards and assessment with 21st century schools, with education flexibility and with choice. Even though they do not directly say it, they do not deny it.

I encourage my colleagues to take a good look at the Goodling substitute. It is the best bipartisan bill. But if that fails, help us try to move something to fruition for the children of this country before this Congress adjourns.

Mr. KILDEE. Mr. Chairman, I yield 2 minutes to the gentleman from New York [Mr. OWENS], a member of the committee.

Mr. OWENS of New York. Mr. Chairman, I rise in strong support of the Neighborhood Schools Improvement Act of 1992. This is a first step in an overwhelming campaign to improve education in America, and that is the way we have to approach it.

We have to have an overwhelming campaign. Remember the word "overwhelming" was coined in terms of Desert Storm, overwhelming force, which means we take a comprehensive approach. We do not try to do it with the frogmen or just the Marine Corps or the helicopters. We have a comprehensive approach where we put everything we have available into the field to try to get results.

We need that. This is the first step. This is a comprehensive effort. It is a beginning of the end of the practice of trivializing education reform in America. We have been trivializing it. We do not treat it the way we should treat it. We do not treat it the way we treat agriculture or the fight against diseases. We must move with an overwhelming effort.

This is an antidote to extremism also. This bill does not try to put all of our efforts into one strategy like choice. The President's bill proposed over half a billion be spent on choice

alone, an untested idea. That is extremism, a totalitarian attempt to shove down the throats of the American school districts a solution which has not been tested.

Finally, this bill provides for national school delivery standards. Any plan like America 2000 which does not have a statement clearly spelled out as to how we are going to improve our delivery standards in schools is a plan which is a world-class fraud.

We cannot talk about world-class standards, world-class tests, and not deal with delivery standards which are going to enable schools to meet those standards and enable our students to pass those tests.

The future of the Nation depends on a serious effort at reform. The only serious effort at reform has to be an overwhelming effort, an effort which tries to make room in the constellation for all of the various units or vehicles that we have out there already.

We can have an American solution to the problem of educational improvement, and this is the beginning, step one.

Mr. GOODLING. Mr. Chairman, I yield 3 minutes to the gentleman from North Carolina [Mr. BALLENGER].

Mr. BALLENGER. Mr. Chairman, John Greenleaf Whittier wrote:

> For of all sad words of tongue or pen The saddest are these: "It might have been."

This quotation expresses my feelings about the Ford education bill. I think all 435 of us will agree that our present educational system is failing and is in desperate need of repair. The American people know, and we should know by now, that throwing more money at the problem is not the solution.

The President's America 2000 Program provided a new approach which could have done the job. If his ideas had been included in this bill, each of our 435 districts would have had an opportunity to create new methods of teaching and learning. They would have had the mandate to break the failed mold of education past and to develop innovative education. All districts would have benefited from the resulting changes.

Instead of what might have been, the Democrat leadership in this house has retreated to dumping money into the failing education system. The Ford bill proposes a $700 million block grant to be administered by the very bureaucracy that stands in the way of true education reform, true change. The Democrats relish the rhetoric of change. But that's all it is, rhetoric. The Ford bill presents nothing new because that would have upset the NEA.

It is high time we stop pandering to the whims of the NEA and start working for the benefit of those education was created to serve—the children. Our schools exist for education and the students, not the stagnant politics of the teachers' union.

Let me say once again:

For of all sad words of tongue or pen
The Saddest are these:
"It might have been."

If we want to support that, support the Goodling and Armey amendments.

Mr. GOODLING. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, this is a sad day for me because it is the first time in 18 years that we have ever come to the floor of the House with an elementary, secondary education bill or, perhaps, any education bill that there was not bipartisan agreement, support, and a bipartisan effort to put it together.

□ 1110

I am surprised, but I am glad I found out that there is strong support for the bill that is on the floor today, because up until today I could not find anyone that wanted to support it. I could not find anyone who wanted to assume pride of authorship. I now have heard that there really is some support out there, and I am pleased to hear that.

Basically, Mr. Chairman, what we are faced with today with the committee bill is really a block grant. It is really a chapter 2 effort all over again, on top of the chapter 2 program we presently have. Contrary to what the Members heard, I would have to say there is nothing in the bill whatsoever that could bring about systemic change.

Four hundred and sixty-six days ago, through the leadership of the President, we got the public thinking about systemic change. After that the gentleman from Michigan [Mr. KILDEE] and his staff and my staff and myself listened to testimony over and over again, and then spent hours and hours drawing up a program that we though would bring about systemic change, would really help us meet the six national education goals. My hope is that in 20 years we can meet those goals. In fact, if we do not meet those six goals in 20 years, it seems to me America as the Members and I now know it will not be around.

We now have before us some choices. First of all, we do not have President Bush's bill before us, even though if we say "a horse is a cow" enough times, I suppose we get some people to believe that a horse is a cow. We do not have the President's bill before us. We have the committee bill, which as I said, I do not believe brings about systemic change. It does nothing to change the direction of education.

In fact, what the committee bill does is say that we will do business as usual. I received the worst letter I have ever seen written by a lobbyist, and that said "support the committee bill, because it does all sorts of wonderful things to help us bring about change." This came from someone who was in a position for years to do something about change but has not done anything about change. What he liked about it was that it sends him money, and he can do whatever he wants with that money.

Then he even goes on to say, "Do not make any changes in this bill unless Chairman FORD says those changes may be made." That is a pretty powerful statement. It is the most blatant kind of letter I have seen from a lobbyist.

Let me talk very briefly about the alternative that I will offer, which I take only some pride of authorship in. I give a great deal of that to the gentleman from Michigan [Mr. KILDEE], and I give a great deal of that to the staff on both sides, because we worked through this after testimony and came up with what we thought would bring systemic change. We would force those entities out there who have never done anything about change to finally say, "Hey, this is a new era we live in. We have to make some changes or this country is not going to be competitive."

Just briefly, some of the things that I do in this substitute, or I should say in our substitute, first of all, real involvement of a local community. If we are going to have a local community of people who spend a great deal of time climbing the ladder of success, get involved in trying to determine "what do we need to do differently in this community," we have some assurance that if they give hours, perhaps hundreds of hours, to their effort, that they cannot then be turned down and somebody else can substitute something.

In the bill that we have before us from the committee, they have the same committee. What is the big difference? That committee can work and work and work, but the local school board can not only, as in my bill, not seek a grant for it, they can rewrite it and send it.

I know they say "preference should be given to something that the committee agreed on." They do not have to do that. In other words, all the hard work of this committee goes down the tube because the board can rewrite it. In my bill, we say they can reject it. The board has, in my legislation, the first opportunity to say whether they want to seek a grant. They have the last statement on the issue, as to whether they are going to send a grant application at all to the State.

Second, in my bill all of the funds must go to educational reform programs. I do not broadly open this and say, 9,642 things you can do with the money, 9,500 of those you have already been doing; nothing new. I zero in on six or seven areas that really need consideration if we are going to bring about systemic change.

Let me make it very clear about where my bill stands on choice. My bill specifically says that that local board will make that decision. If that local

board wants to do what boards all over the country are beginning to do, have choice within their school system, that is their business. We do not dictate that. It is entirely up to them.

Let us make it very, very clear that it is entirely up to that local board whether that becomes something they want to do. No one else, no one from Washington, no one any other place but that board will make that decision.

Flexibility. We have had testimony for at least 10 years saying that, "We could get beyond this access issue," because that is what we are stuck on. We have been stuck on access for 50 years. It was important to move in that direction. Now we have to ask, "Access to what?" If it is not access to quality, what good is the access?

What we say here is, "Yes, this is what we have to reach." These are the goals we have to reach, but we are not telling them from here that they must do it in this way, this way, this way, this way. We are saying, "If you meet those goals, and we will be hounding you to make sure you meet them, you can do that. You can do it your way as long as you make progress toward expected outcomes in Federal education programs.

We do that in my bill. We give them that flexibility. On the other hand, the bill currently before the Members allows 300 schools out of 83. There is not anyone who does not know that flexibility is a big problem. Every person I have ever spoken to, every person who has ever testified, says "If you will give us a little leeway, if you will give us a little flexibility, we can make a difference. We will reach the goals you want, but give us a little credit for having an idea of how we might do that."

My hope is that we will not only have access, but that these youngsters who have been denied quality education will have access to excellence, instead of just access.

Then provide for New American Schools—not very new any longer—because there are all sorts of those in operation at the present time—but if they are going to pursue that avenue, yes, they can make an application to continue doing that using some Federal funds. So that is just a brief resume of what I will offer later.

Again, I hope that we can bring about systemic change. If we do not, I repeat, we are going to find ourselves a noncompetitive nation and not going to live according to the standards to which we have become accustomed.

The CHAIRMAN. All time under the control of the gentleman from Pennsylvania [Mr. GOODLING] has expired.

Mr. KILDEE. Mr. Chairman, I yield such time as he may consume to the gentleman from Utah [Mr. OWENS], for a colloquy.

Mr. OWENS of Utah. Mr. Chairman, my amendment on the chapter 1 funding formula was not made in order by the Committee on Rules yesterday, and therefore I would like to propound, if I might, a question to my colleague, the gentleman from Michigan [Mr. KILDEE], the chairman of the subcommittee, regarding this formula.

I would ask the gentleman, can I be assured that hearings will be held on the chapter 1 funding formula during the reauthorization of the Elementary and Secondary Education Act, and that my proposal will be considered at that time?

Mr. KILDEE. Mr. Chairman, will the gentleman yield?

Mr. OWENS of Utah. I yield to the gentleman from Michigan.

Mr. KILDEE. Mr. Chairman, I would say to the gentleman, yes, that is correct. The chapter 1 formula will be a major consideration during the reauthorization next year. Hearings will be held and the gentleman's proposal certainly would be one of the options considered.

The gentleman from Utah [Mr. OWENS] has been an unrelenting and steadfast advocate for providing educational funding and equity in educational funding. It was his amendment, indeed, in the 1988 reauthorization of chapter 1 that required the Secretary of Education to conduct a study on equity of the chapter 1 formula. We will be looking at that.

Mr. OWENS of Utah. Mr. Chairman, I appreciate the gentleman's reassurance.

Mr. Chairman, yesterday I testified before the Rules Committee on behalf of my amendment to this bill. Mine was a win-win amendent—school children in many States stood to gain by my amendment, and none would be slighted, but the amendment, to my deep regret, was not made in order.

This is an issue of great concern to me and of great importance to my State and to many other States, which receive less chapter 1 money per student than other States. Chapter 1 funds are distributed in a very discriminatory manner, without a defensible theory for its unfairness. This formula distributes more funds to poor children in wealthy States than it gives to poor children in poor States and that is not right. For example, the formula distributes $1.50 to every poor child in Connecticut for every $1 provided to a poor child in Mississippi.

Mr. Chairman, I have been fighting long and hard to change the chapter 1 funding formula and bring more education dollars to Utah, as well as to many other States. Utah is currently dead last in 6 out of the 11 major education formulas designed to distribute Federal education dollars to the States.

Because of the decision made by the Rules Committee, many States will lose valuable education dollars this year—California alone will lose close to $170 million, Texas will lose $180 million and my own State of Utah will lose out a 55-percent increase in education dollars—$11 million this year—in Utah a very significant amount of money to help those disadvantaged students.

I understand that the committee did not want to take up any formula changes this year—however, my amendment was a fair and equitable solution for the interim, to repair a serious and detrimental flaw.

As you know, in calculating chapter 1 funds, the poverty population of those between 5–17 years of age are taken into account. These figures are based on the decennial census.

It is now 1992 and we are still using census figures from over a decade ago. This is an indefensible outrage—to use data now 12 years out of date. It only makes sense because current formula provides more resources to some States than others, and those receiving the higher amounts don't want the rules tampered with. My amendment would have allowed States that have had a population decrease to continue using 1980 census figures for 1992–93, while allowing States that have had a population increase to use the new 1990 census figures and the national-per-pupil expenditure for calculating chapter 1 funding. This would be fair to all.

Secretary Alexander has informed me that we are not using the 1990 census figures this year because data from Puerto Rico could not be fully established in time. I ask you, should 23 States be deprived of an additional $550 million in education money because the Department of Education could not tabulate Puerto Rico's data in time? Should 23 States be deprived of money they truly need?

Mr. Chairman, this delay is unconscionable. My amendment, on the other hand, was both sensible and equitable and could have turned this inauspicious situation around.

I look forward to working with the Education and Labor Committee on developing a more fair and equitable change to the current formula—which is long overdue.

□ 1120

Mr. KILDEE. Mr. Chairman, I yield 2 minutes to the gentleman from New Jersey [Mr. ANDREWS].

Mr. ANDREWS of New Jersey. Mr. Chairman, I thank the gentleman for yielding me the time. I rise in support of H.R. 4323.

We have heard several times this morning that supporters of the administration have been calling for 466 days for action, or whatever the number of days is. Secretary Alexander has been calling for something to be done. President Bush has been calling for something to be done. They have been calling, all right, but they have been calling collect.

Unlike the bill that is before us, this administration is not committed to do what works. It works to put more guidance counselors in schools to help students. They are not committed to that. It works to help kids that need a counselor or a social worker or a nutritionist, and they are not committed to that. What they are committed to do is to politicize the debate.

What does work is when people in school buildings, and families and neighbors make decisions about how their schools ought to look.

This is not a perfect bill. There are things in it I wish it would do. There

are things in it that it does that I am not entirely enthusiastic about. But the best thing that this bill does is to take the education discussion out of the Rose Garden where it has been for the last 3 years, and puts it back in the communities and the neighborhoods where it belongs.

The biggest crisis among many problems in American education is that people running for office have chosen to use education as a vehicle rather than to make education reform their true and honest commitment. Because Chairman FORD and Chairman KILDEE's bill does that, I support it, and I urge my colleagues to do the same.

Mr. KILDEE. Mr. Chairman, I yield such time as she may consume to the gentlewoman from New Jersey [Mrs. ROUKEMA], a member of the committee.

Mrs. ROUKEMA. Mr. Chairman, I rise in reluctant opposition to H.R. 4323, the Neighborhood Schools Improvement Act.

As a member of the Committee on Education and Labor, I have seen this proposed legislation go through a number of interesting twists and turns. First, it began as a response to our President's America 2000 initiative to improve and reform our Nation's elementary and secondary schools. Last October, the committee agreed to report out the first Neighborhood Schools Improvement Act, H.R. 3320, the so-called Ford-Kildee-Goodling bill. It—like the President's approach—contained one major flaw: It would have—for the first time in our history—permitted Federal taxpayer dollars to be used to support private and parochial schools. Although today we are speaking of this proposed diversion of Federal funds to nonpublic schools as school choice, let us be clear—we are talking about school vouchers. In my view, such a move could be the beginning of the end of our Nation's public school system—a system that has, over the years, helped to make this Nation great.

The bill that is now before us, H.R. 4323—the latest iteration of the Neighborhood Schools Improvement Act—is no longer flawed by the inclusion of private and parochial school choice. But, it brings with it another potential policy Pandora's Box. Since last October, the committee has seen fit to venture into the creation of a national system of standards and assessment. Sparked by the recent report of the National Commission on Standards and Testing, and Senate action on a similar systemic education reform bill (S. 2), this legislation authorizes moneys for the development of voluntary national content and delivery standards.

This bill would also move us into the very murky waters of a voluntary national assessment system—although it stops far short of the more onerous national testing proposals that have been advanced by some. As a former public school teacher, and school board vice president, I can assure you that the idea of establishing national standards and testing is not a new one. It has become, however, one of the most discussed school reform tools in the current—and raging—debate concerning how to improve the educational achievement of our children. What is new is the reversal of philosophy among Republicans who are inviting a greater Federal role on education—a role which historically has been limited—a narrow limit which Republicans historically defined. Democrats know what they are doing here as noted in a Dear Colleague from one of our Members, and I quote, "For the first time in our Nation's history, it gives the Federal Government a leading role in education policy.

This will surely be the law of unintended consequences taking charge of future public education.

With respect to the $700 million per year authorization level for educational reform grants to local school districts, it must be stressed that these moneys will benefit only a small number, about 500 of our Nation's neighborhood schools. We have no real idea whether these reform efforts will lead to improved educational achievement. Yet, when the fiscal year 1993 appropriation for Pell grants will necessitate a $100 reduction in the maximum award, from $2,400 to $2,300 due to a $1.5 billion program shortfall—we are about to authorize significant new expenditures for a costly school reform experiment.

Mr. Chairman, I doubt that a majority of our colleagues will be persuaded to vote against an education bill this close to an election—despite the sound arguments against the particular approach that this bill takes. I believe, however, that we should not just legislate for the sake of legislating. Major new endeavors such as launching a national system of standards and testing can certainly wait until next year when the Education and Labor Committee will begin work on reauthorizing the Elementary and Secondary Education Act. In my view, the committee has not had adequate time to fully evaluate the issue of standards and assessment and, once established, what such a system would really mean for our children—and how it might ultimately be used to determine their individual futures.

Moreover, we must recognize that we have many proven education programs that are not fully funded that need our attention. Our Nation's schools are faced with countless challenges as they struggle to provide children with the knowledge, skills, and wisdom that it takes to succeed—and, for many, even to survive—in today's world. Now, Mr. Chairman, is not the time to establish yet another new and unproven program—that will benefit only a small number of local school districts and school children—to vie with existing programs that benefit handicapped and underprivileged children for our very limited financial resources.

Mr. KILDEE. Mr. Chairman, I yield such time as he may consume to the gentleman from Virginia [Mr. MORAN].

Mr. MORAN. Mr. Chairman, I rise in support of H.R. 4323 offered by Representative KILDEE. The Neighborhood Schools Improvement Act is an important piece of education legislation for a number of reasons. First, it displays Congress' continuing commitment to America's students under today's difficult budgetary conditions. However, of equal importance, it relays the message that decisions regarding our schools are still best made at a local level.

Over the next 5 years, it is estimated that this bill will authorize over $3.5 billion in revenue to help schools begin the reform process. As the world changes, and our business systems change, so must our schools change; they must grow to meet the challenges of our changing society. We must not allow our students to be released from an educational system, only to find that the skills they have been given are outdated and no longer useful. H.R. 4323 helps schools to begin this process of adaptation.

Some of my colleagues on the other side of the aisle will argue that there is no way to ensure this money is used in truly innovative ways. However, the applications that they decry as traditionalist are often those that are most critical to fostering new skills in our students—the purchase of computers and the training of teachers in the latest concepts are just two examples. It is clear that there are revolutionary requirements in the battle to restructure our schools.

Some of the ideas, that our Republican colleagues would have us believe are wholly new, are, in fact, nothing more than ways to rob our public schools of the scarce funding they now receive. Senator HATCH, who counts himself among the supporters of private school choice, was quoted on this matter in the Washington Post last week. He says "power is often in our feet: we walk out of bad restaurants, bad movies or bad retail stores." However, how often have we driven through impoverished areas to find bad restaurants and a reliance on overpriced convenience stores. The ability to walk out of establishments as Senator HATCH proposes requires an individual to have access and understanding of better alternatives—many poor families do not have these prerequisites. Why will a choice of schools prove to be any different.

We can find one example right here in our own back yard. Just on the edge of Capitol Hill is H Street Northeast. H Street has never recovered from the riots of 1968. To ride through that area one might feel he has entered a Third World country. However, just a few years ago Mega Foods, a discount food chain, decided to work with the community and open a discount grocery store in the area. Everyone hoped that this would spur the beginning of a renovation process for that entire corridor. Did the choice option help in this situation—it certainly did not. I am told that if you shop in Mega Foods now the shelves are often bare—and the H Street corridor—it is as poor as ever. Choice continues to be a benefit of the wealthy.

H.R. 4323 will help our educators to renew their methods with the help and assistance of community and business leaders. This is what our school systems need, not false promises like private school choice. It is unfortunate that we cannot do more at this point, but the Neighborhood Schools Improvement Act is a good start. I urge my colleagues to support it.

Mr. KILDEE. Mr. Chairman, I yield 2 minutes to the gentleman from Texas [Mr. COLEMAN].

Mr. COLEMAN of Texas. Mr. Chairman, I thank the gentleman from Michigan for yielding me the time.

Let me say at the outset that there are a number of us that have read the legislation that was introduced by the gentleman from Illinois [Mr. MICHEL] and others on behalf of the President of

the United States. A lot of what the President proposed would have been good legislation, and I think many of us in this Chamber would support it.

I also think that some of what he proposed is the wrong direction to go, and so a lot of us are not unhappy that we are not debating every proposal made by the administration, particularly those that suggest that we can take hundreds of millions of dollars, I suspect from the taxpayers, in order to reimburse persons who send their children or elect to send their children to private schools. I understand the issue of choice. I do not happen to believe that it is necessary for the Federal Government to be the one to dictate those kinds of issues. In fact, I appreciate the statements of both of the gentlemen from Wisconsin in highlighting the fact that they were able to achieve results that I think are being watched by the rest of the Nation in a very serious way at the local and State levels themselves.

I would say that I think it is important that this legislation ultimately address the issues that Governor Clinton addressed in recent testimony that he gave, and that was legislation that, by the way, I have introduced last year and this year, to deal with the inequities in schools and whether or not we will be able to find the kind of funding we need to assist States in providing the elimination of those inequities and providing equalization for our schools.

In addition to that, I think Secretary Alexander's position with respect to using 1980 census data is a travesty. My State of Texas will lose in excess of $100 million because of that decision, and in fact, many of the children that we are addressing providing funds for have already graduated from public schools using those statistics, and so I think we have to address that issue. I know the committee will continue to hold hearings and work on that issue, and I intend to seek out a commitment from the chairman and the subcommittee chairman on that issue.

Finally, I would say that I happen to think that this bill deserves our support. It is a good first step, as our colleague from New York put it. I think we can move forward, and I thank the gentleman for the time.

Mr. KILDEE. Mr. Chairman, I yield 30 seconds to the gentleman from Arkansas [Mr. ALEXANDER].

Mr. ALEXANDER. Mr. Chairman, I thank the gentleman for yielding me the time and appreciate his initiative and leadership that he has provided. My heart breaks when I see the conditions of some of our schools, and I want to do what I can to improve those conditions and to provide an opportunity for a better education for our children.

The good intentions of the debate here today caused me to recall what the President of the Russian Republic, Boris Yeltsin, said in his recent address to a joint meeting of Congress here in this room.

He told us that "even the most benevolent intentions will inevitably be abandoned and committed to oblivion if they are not translated into everyday efforts."

Here in Congress, we strive everyday to see that good intentions are translated into everyday efforts, to make things better for our country and its people.

Making our educational system better has been one of my major goals since coming to Washington in 1969. During my service in Congress, I have visited every school in the First Congressional District of Arkansas. In fact, I made a conscious decision on coming here that I would devote as much time as possible to issues affecting young people—because they are the future.

In visiting our schools, I have found that taxpayers get more than their money's worth from the teachers who instruct our children.

They work hard in the classroom.

They are committed to teaching.

In fact, teachers are often not only educators for our children, but the only real supervisional role models their students have.

My point is: We can make strive mightily here in Washington to translate benevolent intentions in everyday efforts by passing bills which benefit education—but we cannot address the root causes of the problem in education for many of our children.

You see, their problem is not in the classroom. Their problem beings at the doorsteps of their home. They attend school every day, but after the final bell, they often return to a home which is—for whatever reason—not a loving, nurturing place.

The superintendent at the high school in Earle, AR, once told me that many of the students in his school didn't really have a home to go to, or conditions were such in the home that they didn't want to spend time there. So many children went to the streets which led them to trouble, even crime.

When I was in elementary school in my hometown of Osceola, I would go home in the afternoon before beginning my paper route to a loving mother, cookies on the stove and milk in the refrigerator. My needs were attended.

A professor of Spanish, who came to America 5 years ago from Ecuador, told me that "the problem with American youth is that their mothers don't spend enough time with their children." I would observe that, in many cases, both mothers and fathers do not spend enough time with their children.

Yes, we can attempt to translate benevolent intentions into everyday efforts here in Washington. But, Mr. Chairman, there is simply no substitute for the attention, nourishment, and encouragement a child needs to receive at home from loving parents.

Certainly, we should not give up trying to make things better, but Congress cannot hope to produce a whole child by its efforts alone.

My mother-in-law recently gave me a wall hanging that contains an important lesson for Congress, for parents, for all of us:

CHILDREN LEARN WHAT THEY LIVE

If children live with criticism, they learn to condemn.

If children live with hostility, they learn to fight.

If children live with ridicule, they learn to be shy.

If children live with shame, they learn to feel guilty.

If children live with tolerance, they learn to be patient.

If children live with encouragement, they learn confidence.

If children live with praise, they learn to appreciate.

If children live with fairness, they learn justice.

If children live with approval, they learn to like themselves.

If children live with acceptance and friendship, they learn to find love in the world.

Mr. KILDEE. Mr. Chairman, I yield the balance of my time, 1 minute, to the gentleman from Michigan [Mr. FORD], chairman of the full committee.

Mr. WILLIAMS. Mr. Chairman, will the gentleman yield to me at the onset of his remarks?

Mr. FORD of Michigan. I have 1 minute, and I yield to the gentleman from Montana.

Mr. WILLIAMS. Mr. Chairman, I appreciate the gentleman yielding. I just want to point out that this is a step, this bill is a small step. It does not in my judgment provide the leadership that we fully need, but I think there is a reason for that.

The lesson from this bill is that this country needs a President and a Congress of the same party. This bill would be a bold bill if Chairman FORD and Chairman KILDEE knew that they could get a signature on it.

I think this bill points out that we need leadership in both the White House and the Congress, and I thank the gentleman for yielding.

Mr. FORD of Michigan. Mr. Chairman, I want to observe that Members are going to have a smorgasbord today, a lot to choose from.

According to what I have heard so far, one thing Members will not have a chance to get a choice for is Education 2000. I am kind of sorry about that, because the Secretary has been touring the country ever since he arrived in Washington originally chanting the mantra of Education 2000 like a rap singer. And I do not know what he is running for, but he sure is not talking about improving education. He has been playing politics for a year and a half, and the product today is the answer to that playing politics game.

The Neighborhood Schools Improvement Act is the first comprehensive school reform bill the Congress has considered. All prior bills have focused on individual groups of children or on particular problems. This bill, by contrast, calls for sweeping restructuring in the education of all children. Let me briefly describe the four chief characteristics of H.R. 4323 which make it so different from the programs we have considered in the past.

First, the bill calls for the development of voluntary national standards for education. Never in our two-century history as a nation have we had standards to describe what children should know. Educators tell us that we must have these standards now in order to have a focal point for national education reform.

Second, the bill creates a framework to improve the education of all children. Not since the Federal Government set-aside land to create public schools in the 18th and 19th centuries have we at the national level been concerned with the education of all children.

Third, the bill calls for systemwide reform in education. As I have already mentioned, current Federal programs now focus on one population of students or another or on one problem or another. None seek broad-based improvement of the entire system of public education.

Fourth, the bill emphasizes educational achievement instead of concentrating on the educational process. The bill also anticipates easing Federal and State rules and regulations in exchange for students achieving higher grades.

The Congress has never been concerned before about achieving such broad-based school reform and, therefore, we have had to think differently as we have crafted this legislation. The only disappointment I have is that the bill calls for spending only $800 million in the first year. I believe we should be spending billions of new dollars to meet the needs in education. But with the current tight budget resolution we had little hope that we could secure these dollars soon. Therefore, we have put off a great expansion of this program until next year and the following years.

Another important point is that the Neighborhood Schools Act is only the first step of a two-part process to improve education. H.R. 4323 will establish the general framework for school reform but then next year we will have an opportunity to refashion the array of Federal programs to fit within this framework. Ten billion dollars of current Federal aid expires next year and must be reauthorized. This will be our chance to update Federal programs and hone them to achieve broad reform.

Let me add a point about national testing since that area is so controversial. H.R. 4323 authorizes research and development on models for assessment in mathematics. The bill does not call for the immediate adoption of a national testing system.

Our committee decided not to take a major step in the direction of national testing because we do not know what would be tested. Every expert has told us that national standards must be developed before any national assessment system is fashioned to measure the progress toward achieving those standards. The only area in which national standards are near completion is mathematics and, therefore, we have authorized the development of models to assess math proficiency. No other subject area is anywhere near being ready for assessment. Therefore, we thought it was more prudent to wait until next year to decide what to do in these other areas.

The last topic I wish to discuss is the subject of aid to private schools. Several members are interested in offering voucher or choice amendments involving private school participation.

I am unalterably opposed to all these amendments. Such amendments are unconstitutional, distract us from the needs in education, and many lead to fraud and abuse.

Yesterday, I included in the CONGRESSIONAL RECORD a statement outlining 45 years of constitutional law in the area of aid to private schools. A close reading of these decisions by the Supreme Court will show that vouchers for elementary and secondary education are unconstitutional.

These voucher or choice proposals are also extremely unwise in that they distract us from addressing the real problems in education. We will be spending our time arguing the merits of these unconstitutional proposals when we should be addressing ways to improve the public schools.

Vouchers and choice proposals will also open the door to fraud and abuse. Most people think of vouchers or choice as aiding parochial schools but such amendments move us in the direction of aiding private, profit-making schools.

In the area of postsecondary student assistance, we have grappled with the problems of how to involve profit-making schools while avoiding any opportunities for abuse. In the higher education amendments which were signed into law 2 weeks ago, we enacted over 100 amendments clamping down on the bad apples among the postsecondary proprietary schools. These abuses have given the whole proprietary community a bad name and have weakened congressional support for loans and grants for postsecondary education.

I fear that the creation of vouchers and choice will encourage the unscrupulous to become involved in offering private elementary and secondary education. We will then be a long way from helping the local parochial school, and we will be enmeshed in regulating private education to avoid the potential for abuse.

I urge the House to vote down any voucher or choice proposal. Let us get about the business of improving education without these diversions.

The Neighborhood Schools Improvement Act will put us on the right path for improvement. School reform will be helped by this bill and I urge its adoption.

Mr. DEFAZIO. Mr. Chairman, I rise in strong support of the Neighborhood Schools Improvement Act. This legislation provides a sound framework for meaningful public school reform. I oppose any modifications to this bill that would in any way divert public funds to private schools or dilute the strong commitment to public education this bill fosters. A strong, equitable system of public education is the cornerstone of democracy.

This legislation complements State and local education reform initiatives already under way in Oregon. Increased flexibility with the use of Federal education funds will allow local school boards to improve public education on a school-by-school basis.

Oregon, and the country as a whole, will benefit greatly by passage of this important legislation.

Mr. FAZIO. Mr. Chairman, I rise in support of H.R. 4323, the Neighborhood Schools Improvement Act, the bill which will serve as the foundation for the comprehensive educational reform that we so desperately need in this country today.

Earlier this year, the Educational Testing Service reported that, although top American schoolchildren can compete with the best students around the world, 90 percent of our students are learning below international averages in both math and science. Although this is never the kind of news we like to hear, it comes as no surprise to most of us. For years, our educators, parents, community leaders, and business people alike have all been mourning the state of America's educational system and the fact that our young adults lack the basic skills and training that they need to be productive workers in today's world.

Today, those of our young people who do not finish high school are qualified for about 40 percent of all available jobs. By the year 2000, it will drop to only 14 percent of what is out there in the job market. At the end of the decade, a high school graduate with no additional skills will not be able to compete. Educational reform in America is long overdue.

I have had numerous conversations with educators—not only from my district, but from throughout the State of California and the Nation—about what it is they need to do their jobs and do them well. During these talks, two themes in particular are repeated—resources and flexibility. They need the resources and the flexibility to get the results that we need and want—future generations of well-educated Americans. H.R. 4323 provides both, and more.

First, H.R. 4323 establishes a national education goals panel. The panel's job is to set voluntary national standards that describe what students should know and be able to do, and what resources schools should have in order to provide them with the education that they need. The panel is also charged with determining specific measures of success, as well as with issuing an annual report card to the Nation.

H.R. 4323 also authorizes a systemwide Neighborhood Schools Improvement Program, which will provide grants to States for education reform. This is the part of the bill that gives States both the resources and the flexibility to develop and execute their own educational plans. These plans must include goals to maximize the achievements of all children—not just a privileged few at selected schools—and must specify what children should know and be able to do in specific subjects. The plans must also provide for resource development—for the necessary tools to achieve the goals.

States are required to match proportionately greater amounts of their Federal funding for the 2d through the 10th year of the program. But, during the program's first year, there is no State matching requirement. Additionally, during the first year, States are not required to make any subgrants to local school districts. But, in all succeeding years, a State must pass on at least 75 per cent of its allotment, including its own State match, to school districts for support of their educational reform efforts.

School districts may then, in turn, support numerous programs, including, but not limited to, merit schools, early childhood, parental involvement, teacher and administrator training and development, and replicating and enhancing successful curricula and resources. One grant must be made to at least one school district in each congressional district, and the school district with the largest number of dis-

advantaged children in each State must receive a grant. H.R. 4323 also provides for the establishment of broadly representative local committees, comprised of heads of local governments, school superintendents, school board representatives, business representatives, teachers, parents, representatives of local colleges, and other citizens, to work in conjunction with the school boards on their educational plans.

There is also a 5-year demonstration project for the education of disadvantaged students. The project will permit some schools to temporarily suspend certain Federal and State laws in an effort to see if it makes it easier for these schools to educate these students without these added regulations.

H.R. 4323 provides a framework for change throughout the educational system. This framework is not supported by vague concepts and rhetoric, but by specific goals. It permits whole communities to become involved in the process and implementation. It gives States and school districts the direction and support that they need to do their jobs, and well as the room to operate freely. It produces results.

America's economic health depends on our ability to adequately educate all of our children. For this reason, Mr. Chairman, I especially want to applaud Chairman FORD and the committee for their action on this important legislation. In spite on the limited funds available, they have nonetheless brought us a results-oriented framework that we can build on as we work toward achieving this end. H.R. 4323 deserves our support.

Mr. EWING. Mr. Chairman, today we have the opportunity to take a step toward improving our educational system and improving the future of our children. In recent years, Congress and the President have authorized many task forces to study our educational system for ways to make improvements. As a result we have tried various new approaches, usually involving increased spending, which have resulted in few meaningful changes. However, many studies have shown that parental and community involvement in education must be increased before real improvements can be made.

The bill which is before us today, H.R. 4323, does not contain provisions which can encourage parental involvement and other basic changes to the current system. Rather, H.R. 4323 merely pumps increased Federal dollars into a failing system.

The Goodling substitute, which is the basis of an earlier compromise between Republicans and Democrats, would give States and local communities the ability to look for new and innovative ways to approach education and to strengthen cooperation between parents, teachers, and local communities. Any school, not just a select few, wishing to implement a reform program would be able to apply for exemption from current regulations which inhibit reform plans. We must allow our schools and teachers this flexibility, if we expect them to find new and better ways to educate their youngsters. In addition the substitute would create hundreds of break-the-mold new American schools, as well as world-class standards and a voluntary national examination system.

Already, 45 States have begun to adopt the President's America 2000 Program. It is time for Congress to follow the States' innovative lead and pass the Goodling substitute. We in Congress can no longer afford to be passive about the education of our young people. The United States is not a nation of mediocrity, but one of innovation and leadership. Instead of pouring more money into the same old system, let's try a new and innovative program.

Mr. EMERSON. Mr. Chairman, I am pleased to support the amendment offered by my fellow Missourian, Representative WHEAT, even though I have difficulty with the bill in its entirety. I am concerned with H.R. 4323, because I believe it is a continuation of business as usual in the field of education. We don't need business as usual; we need change. We need real reform, not cosmetic changes to the same old tired system that continues to fail. The Wheat amendment is a refreshing change of pace. This amendment will add the Parents as Teachers [PAT] Program to the education bill.

Initiated in Missouri, PAT has met with tremendous success in the 11 years that it has been operative. It is an innovation in education whose time has come. It is a program that teaches parents how to properly feed their children, and how to teach them to read, and in many cases teach the parents to read in the process. It promotes family togetherness and involves the parent more in the child's life. This is a program that recognizes that parental love is as natural as rain, but that parenting skills have to be learned. It is not expensive, and it works. PAT is a worthwhile investment in our children, and I thank my colleague, Mr. WHEAT, for offering this amendment.

I wish my enthusiasm for this bill was as strong as it is for PAT. Unfortunately, it is not. As my colleague from Alabama mentioned earlier in the debate, PAT is a rose among thorns. PAT is the type of change that is needed in our educational system.

Mr. MICHEL. Mr. Chairman, I rise in opposition to what the Democratic majority in this Congress is calling the Neighborhood Schools Improvement Act.

This bill does not contain any bold, new ideas to improve the education of our children. There is no plan to raise the academic standards in this Nation, or to provide real, systemic reform to ensure that the national education goals will be met by the year 2000.

Rather, this so-called improvement act provides more funding for the same old tired policies, administered by the same old bureaucracies that have left so many of our schools and our children in such dire straits.

For all Americans demanding change, I urge them to take a careful look at the President's America 2000 education reform proposal.

This proposal, which has been languishing before Congress for over 14 months, is predicated on four principles:

First, it seeks to create better and more accountable schools.

Second, it would establish New American Schools—a new generation of break-the-mold schools that truly meet the needs of today's students.

Third, it emphasizes universal adult literacy.

And, finally, it recognizes the need for more parental and community involvement in education reform.

After committee hearings on the President's America 2000 proposal, and an initial bipartisan bill reported by the Education and Labor Committee last October, the Democratic majority has once again decided to take the political route.

Completely disregarding the bipartisan agreement reached last year, the majority reported out a new bill in May that hardly has any resemblance to the President's original proposal.

Gone are the break-the-mold New American Schools to help spark innovation.

Gone are the world class standards and assessments to help meet and measure progress toward the national education goals.

Gone is the flexibility to use Federal funds and the relief from Federal education mandates on teachers and principals.

And gone is option for low- and mid-income children and their parents to select the school of their choice.

Congressman GOODLING will be offering an amendment which contains the elements of the bipartisan agreement we thought we had.

It contains the basic elements of the President's America 2000 proposals.

I will support the Goodling substitute.

It authorizes seed money for new American schools.

It allows schools in all 50 States to apply for waivers from the regulatory morass surrounding the $11 billion in Federal funding for elementary and secondary programs.

It recognizes the need to create a tough, but voluntary, system of standards and assessments.

And, it allows States and localities to decide for themselves whether to develop a choice program using Federal funds.

The Goodling substitute represents real change in the attitude toward education of our children. The majority's proposal is just a continuation of policies that have contributed to our crisis in education.

Mr. MAVROULES. Mr. Chairman, I would like to voice my support for H.R. 4323, the Neighborhood Schools Improvement Act. Recent reports from the Education Department clearly indicate the United States has been lagging behind other industrialized nations in terms of our commitment to education.

It is no coincidence that the economies of Japan and Germany have steadily grown since World War II and during that same time period they have made a serious commitment to education.

Although educating our children is undertaken by local authorities, the Federal Government also has a vital role to play in educating America's youth. In reporting H.R. 4323, the Education Committee noted that this legislation implements a reform strategy that encompasses the entire educational system. I agree with Chairman FORD that a coordinated reform effort at the national level and in every State is a much better approach than a fragmented endeavor.

The bill authorizes $800 million in fiscal year 1992, and such sums as may be necessary for each fiscal year through fiscal year 2001, for a program of grants to States to develop and implement plans to provide system-wide education reform. H.R. 4323 also establishes the National Education Goals Panel to oversee the development of voluntary national education standards, and a demonstration pro-

gram to test whether granting waivers of certain Federal and State regulations will improve student achievement.

Mr. Chairman, I support this legislation because it will benefit America's most valuable resource—our children.

Mr. GREEN of New York. Mr. Chairman, our task today is to enact legislation that will implement education reform. The goal is to improve the elementary and secondary schools of this country and in doing so, increase the educational achievements of our youth. One of the main themes in the debate over educational reform has been the issue of school choice—that States, local communities and parents are the best judges of what programs are needed and how they should be designed to best meet the needs of the students.

I find it ironic then, that the two amendments that are being offered as substitutes to the Neighborhood Schools Improvement Act, one by the gentleman from Texas [Mr. ARMEY] and the amendment of the gentleman from Pennsylvania [Mr. GOODLING], while offering varying approaches on choice, single out one issue for which there is to be no choice and no input from the local community and parents: The provision of contraceptives and abortion counseling to students. Those amendments explicitly state that no funds are to be spent by schools for birth control or abortion counseling.

In light of the increase in the teen pregnancy rate and the incidence of sexually transmitted diseases among teenagers, these provisions are inappropriate and shortsighted and I must vote against the amendments that contain them.

There is no doubt that the question of contraceptives and abortion is controversial. And there is no doubt that most of us would wish to see parental involvement in such significant matters. But there is also no doubt that the United States is experiencing a very troubling increase in the number of teen pregnancies and the incidence of sexually transmitted diseases [STD]. From 1970 to 1988, the number of out-of-wedlock births to teens jumped by 61 percent. Two-thirds of the births to teens occurred outside of marriage in 1988. Every year 2.5 million adolescents contract an STD. Adolescents have higher rates of gonorrhea and chlamydia than any other age group. Providing contraceptive advice and devices will not encourage sexual activity—sexual activity among teens already exists. In 1988, more than 25 percent of 15-year-olds surveyed by the U.S. Centers for Disease Control reported being sexually active.

The numbers on teen pregnancy and sexually transmitted diseases exist largely because Federal efforts to provide the necessary funding for family planning programs have been stymied over the past 12 years by the so-called right to life movement. We cannot continue down that path, especially on legislation that purports to remove the long arm of the Federal Government from matters best left to local communities, and I urge my colleagues to oppose the Armey and the Goodling amendments.

Mr. AUCOIN. Mr. Chairman, I urge the House's approval of the Neighborhood Schools Improvement Act. This important bill will bring new educational opportunities to students all over the country, and especially to economically disadvantaged young people.

In addition, by approving my educational flexibility amendment, we've further bolstered ongoing State school reform activities currently underway in Oregon and around the United States. I want to thank Chairman FORD and Subcommittee Chairman KILDEE for their terrific help on this amendment and their wisdom in understanding how important it is to students, parents, teachers, and administrators in States like my own. I'd also like to thank Mrs. UNSOELD of Washington, a member of the Education and Labor Committee, for her invaluable assistance.

I'll close by noting that the House has acted most wisely in turning down several school choice amendments. Mr. Chairman, the people of Oregon have made their position on this issue very clear by decisively defeating a school choice ballot measure in 1990. At a time when our public schools are financially strapped, how can we even think about helping to fund nonpublic institutions? The answer is simple. We can't. I'm glad my colleagues realized this.

Mr. PASTOR. Mr. Chairman, I rise in support of H.R. 4323, the Neighborhood Schools Improvement Act.

This is a good bill which will help to restructure and reinvigorate America's public schools.

Many schools in my district can benefit from extra Federal funds which reward systemic improvements to delivering education. I represent a large Hispanic community, as well as schools on Indian reservations. Money from this legislation could help to improve the high dropout rate, gang activities, bilingual education, and the special needs of school districts with significant numbers of minority students.

While I welcome the challenge for change, I strongly oppose any amendments that would divert scarce Federal funds toward private school choice. I deplore the use of public funds for private, sectarian schools not only on constitutional grounds but also for equity reasons. Private school choice robs Peter's necessary classroom materials in order to pay the luxury of Paul's elite private schooling.

Wealthy and middle-class families can choose to send their children to private or public schools. Unfortunately, the children left behind in public schools do not have the luxury. It would be cruel and unlawful to deny them access to equal educational opportunities.

H.R. 4323 provides the means and the motivation to improve our neighborhood schools.

Our children are hungry for change. The future of our Nation depends on their getting a good education. Let's pass this bill and give America's neighborhood schools the incentives for meaningful, systemic reforms in education. It's a good investment and a good solution to our educational crisis today.

Mr. HUGHES. Mr. Chairman, I rise in strong support of H.R. 4323, the Neighborhood Schools Improvement Act, and urge my colleagues to support this important piece of legislation.

Over the last 2 weeks our country has watched with great pride as young American athletes set new standards for Olympic competition through their sheer determination and high performance achievements. The Olympics have once again proven that Americans, when competing on a level playing field with their international counterparts, can achieve the same level of greatness and set new standards of excellence for the rest of the world to emulate.

And yet, American students do so poorly in the field of academic competition. Every year we have witnessed American students' academic scores slipping further and further toward the bottom of the field of industrialized nations. We cannot afford to sit back any longer and watch our students lose pace with the rest of the world.

Isn't it time we sent our students into competition well-prepared, energized, and posed for victory instead of defeat?

Due to the end of the cold war, we now have a tremendous opportunity to do just that by readjusting budget priorities and reinvesting in our education system. H.R. 4323 represents a firm commitment to our public education system and American students.

The Neighborhood Schools Improvement Act, will promote change in our public school system and facilitate the achievement of our national education goals by providing long overdue funding to our local school districts for a variety of program improvements and the development of innovative educational strategies.

Those who know best how to enhance the educational process—schoolteachers, principals, superintendents, and parents—will be the architects of this new effort.

As new programs and strategies are developed at the local level with the passage of H.R. 4323, the Federal Government can then assume a more appropriate role as a clearinghouse for information. Innovative ideas that have been successfully implemented locally in certain areas can be shared with other school districts across the country.

H.R. 4323 presents our best chance to raise American students from a last place finish to their rightful place of prominence among their international counterparts. And with a highly skilled, well-trained work force, America will remain competitive and prosper in the global marketplace.

It is so important that we make this commitment to education—nothing less than the future of this great Nation will depend upon our actions today. I urge my colleagues to support this legislation.

Mr. MARKEY. Mr. Chairman, I rise in support of H.R. 4323, the Neighborhood Schools Improvement Act. I would like to commend subcommittee Chairman KILDEE for introducing this legislation that is so critical to the future of our country. I would also like to commend Chairman FORD for his continued hard work in improving the educational system.

This bill authorizes $800 million in fiscal 1992 for block grants to States for educational initiatives. In an overwhelming systemwide reform, all schools would benefit, not just select schools that already have the resources to educate effectively.

The core to reform of our educational system lies on the local and State level. H.R. 4323 requires a State panel to develop a comprehensive plan establishing goals to maximize achievement for all children. A similar

panel may also be formed on the local level. This initiative is an effective way to increase parental and community involvement in improving the overall educational environment.

H.R. 4323 requires the Department of Education, through the National Academy of Sciences, to evaluate the school delivery standards and to assess and make recommendations in an interim report. Our students are falling behind students in almost every industrial country in the areas of science and mathematics. In order to allow our students to compete for the emerging technological jobs, we need to reform the current system.

It is important to note that this bill does not endorse the administration's proposal to allow parents to choose a private school using a public voucher. My view is that it would be a devastating blow to our public school system to direct public moneys for private education. This would simply allow private schools to siphon off the best and the brightest from the public system.

H.R. 4323 takes a significant step forward in reforming our educational system and I strongly support its passage.

Mr. LEWIS of Florida. Mr. Chairman, it is unfortunate that H.R. 4323, the Neighborhood Schools Improvement Act, is being promoted by the majority on the Education and Labor Committee as an education reform bill. It is not.

H.R. 4323 simply funnels more Federal money into the existing education system, without providing the necessary flexibility for real reform of our schools. The bill does not include school choice as an acceptable option for reform. It provides very little flexibility to schools and communities to try new approaches to education. It does not provide a separate authorization for the New American Schools Program, which would fund a new generation of schools using innovative approaches.

It makes no sense to pour millions more Federal dollars into a system that needs repair. Without fundamental reform, our schools cannot achieve the ambitious goals established by the Governors and President Bush. Therefore, I must oppose H.R. 4323.

Mr. BALLENGER. Mr. Chairman, President Bush has worked diligently to fulfill his role as the education President, but to no avail. This Congress has repeatedly blocked his efforts to reform and improve the failing education system. As a part of his America 2000 strategy, the President, along with the Nation's Governors, developed six national education goals that would serve as the proper object of genuine reform. In response to his efforts, the Democrats are offering the Ford bill (H.R. 4323) which flies in the face of the national education goals, as well as all attempts to effect true education reform.

The Democrats who support the Ford bill, claim it to be a vehicle of reform and change. On the contrary, it would perpetuate the status quo by calling for a $700 million Federal block grant program to be spent by the education bureaucracy, with virtually no sending guidelines, no reform requirements, and zero accountability to parents. In fact, Education and Labor Committee Chairman FORD said the bill is "all cliches and show business. It's not going to revolutionize anything."

The death grip had by the National Education Association over school boards and public schools has crowded out the voices of parents on how to educate their children. Because teachers' unions have no accountability to parents, children, and the very Congress that funds their machine, they have no incentive to change. Change is the word that keeps popping up in political discussions throughout our country. Change was the word on the lips of every Democrat during their recent convention.

Mr. Chairman, if the Democrats are truly in favor of change, they would vote against the Ford bill and vote for the Armey amendment. The Armey amendment is based on the principle that parents care, more than anyone, about their children's education. It incorporates the important element of community involvement. It acknowledges the long-range fact that massive Federal spending has very little to do with school quality.

I support the Armey amendment's attempt to return H.R. 4323 to the original objectives of the President. I embrace the inclusion of real school choice for private, parochial, and public schools. The Armey amendment earmarks 25 percent of program funds for school choice. I recognize the wisdom in elevating the role of the Governor in education. The Armey amendment would place the Governor at the helm of education by appointing him the statutory chairman of the statewide panel, with the authority to appoint seven of the statutory members. By giving the Secretary of Education the authority to deny grants based upon his determination that the funds are being used for other than promoting reform in education, the Armey amendment establishes an important structure of accountability for those receiving Federal funds. In keeping with the President's goals, the Armey amendment allows only activities that would create real school reform: school choice, site-based management emphasizing alternative certification, merit testing, New American Schools, and language from the Hatch amendment ensuring that parental rights are protected.

In addition to the Armey amendment, I support the Goodling substitute which incorporates the President's ideas to revolutionize education by helping to create thousands of break-the-mold schools, world-class standards and a voluntary national examination system, giving teachers and principals more flexibility in the spending of Federal money, and allowing States and localities to provide middle- and low-income families with more choices of all schools.

Mr. Chairman, time is running short. Our failing education system is producing a generation of children who will be unable to compete in this rapidly changing, global society. To simply pour more money into the coffers of the education bureaucracy is not the answer. To continue funding the status quo, which is observably failing, is unjustifiable. The American people are relying on this Congress to pass an education bill that will truly bring about the education reform so desperately needed. I urge my colleagues to vote "yes" on the Armey amendment, "yes" on the Goodling substitute, and "no" on the Ford bill.

The CHAIRMAN. All time for general debate has expired.

Pursuant to the rule, the committee amendment in the nature of a substitute printed in the bill, modified by the amendments printed in section 2 of House Resolution 551, is considered as an original bill for the purpose of amendment and is considered as read.

The text of the committee amendment in the nature of a substitute, as modified, is as follows:

H.R. 4323

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

TITLE I—COMPREHENSIVE RESTRUCTURING

SECTION 101. COMPREHENSIVE RESTRUCTURING.

The Elementary and Secondary Education Act of 1965 (20 U.S.C. 2701 et seq.) is amended—

(1) by redesignating sections 8001 through 8005 as 10001 through 10005; and

(2) by inserting after title VII the following:

"TITLE VIII—RESTRUCTURING PROGRAM

"PART A—NATIONAL EDUCATION STANDARDS AND ASSESSMENT

"SECTION 8001. SHORT TITLE.

"This part may be cited as the 'National Education Standards and Assessment Act of 1992'.

"SEC. 8002. FINDINGS AND PURPOSES.

"(a) FINDINGS.—The Congress finds that—

"(1) the establishment of voluntary national standards is an important, complex, and sensitive task and any coordinating structure for this purpose must be bipartisan, engage government at all levels, and involve the many constituencies that have an established interest in improving education;

"(2) much work in the area of developing standards has already begun and the national effort should benefit from and not attempt to duplicate quality efforts proposed by existing Federal and non-Federal entities; and

"(3) a coordinating structure should maintain the tradition of State and local authority over education and become part of a cooperative national effort.

"(b) PURPOSES.—The purposes of this part are

"(1) to advance the establishment of national education content standards and to raise the academic performance of students and schools throughout the Nation; and

"(2) to provide funds for the development of school delivery standards and for further research and development on assessment to measure the progress of the Nation in meeting national education goals and standards.

"SEC. 8003. NATIONAL EDUCATION GOALS PANEL.

"(a) ESTABLISHMENT.—There is established a National Education Goals Panel (referred to in this part as the 'Panel').

"(b) COMPOSITION.—

"(1) IN GENERAL.—The Panel shall be composed of 14 members (referred to in this part as 'members'), including—

"(A) two members appointed by the President;

"(B) eight members who are Governors, three of whom shall be from the same political party as the President and five of whom shall be of the opposite political party of the President, appointed by the Chairperson and Vice Chairperson of the National Governors' Association, with each appointing representatives of his respective political party, in consultation with each other and in accordance with paragraph (2); and

"(C) four Members of Congress appointed as follows:

"(i) One member appointed by the majority leader of the Senate from among the Members of the Senate.

"(ii) One member appointed by the minority leader of the Senate from among the Members of the Senate.

"(iii) One member appointed by the majority leader of the House of Representatives from among the Members of the House of Representatives.

"(iv) One member appointed by the minority leader of the House of Representatives from among the Members of the House of Representatives.

"(2) SPECIAL APPOINTMENT RULES.—(A) The members appointed pursuant to paragraph (1)(B) shall be appointed as follows:

"(i) If the Chairperson of the National Governors' Association is from the same political party as the President, the Chairperson shall appoint 3 individuals pursuant to such paragraph and the Vice Chairperson shall appoint 5 individuals pursuant to such paragraph.

"(ii) If the Chairperson of the National Governors' Association is from the opposite political party as the President, the Chairperson shall appoint 5 individuals pursuant to such paragraph and the Vice Chairperson shall appoint 3 individuals pursuant to such paragraph.

"(B) If the National Governors' Association has appointed a panel that meets the requirements of this subsection prior to the date of enactment of this title, then the members serving on such panel shall be deemed to be in compliance with the provisions of this subsection and shall not be required to be reappointed pursuant to this subsection.

"(c) TERMS.—The terms of service of members shall be as follows:

"(1) EXECUTIVE BRANCH.—Members appointed under paragraph (1)(A) shall serve at the pleasure of the President.

"(2) GOVERNORS.—Members appointed under paragraph (1)(B) shall serve a two-year term, except that the initial appointments under such paragraph shall be made to ensure staggered terms with one-half of such terms of members concluding every two years.

"(3) MEMBERS OF CONGRESS.—Members appointed under paragraph (1)(C) shall serve a term of four years.

"(d) INITIATION.—The Panel may begin to carry out the duties of the Panel under this part when ten members of the Panel have been appointed.

"(e) DATE OF APPOINTMENT.—The initial members shall be appointed not later than 60 days after the date of enactment of this title.

"(f) VACANCIES.—A vacancy on the Panel shall not affect the powers of the Panel, but shall be filled in the same manner as the original appointment.

"(g) TRAVEL.—Each member shall be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of title 5, United States Code, for each day the member is engaged in the performance of duties away from the home or regular place of business of the member.

"(h) CHAIRPERSON SELECTION.—

"(1) INITIAL SELECTION.—The members appointed under subsection (b)(2) shall select a Chairperson from among such members, except that after the expiration of the term of the member selected under this paragraph to serve as Chairperson as of October 1, 1992, or upon the termination of the tenure of such Chairperson, whichever is earlier, a majority of the members of the Council shall select the Chairperson from among the members.

"(2) CONTINGENT SELECTION.—If no individual described in paragraph (1) assumes the position of Chairperson of the Council 60 days after the date of the enactment of this title, a majority of the members shall select a Chairperson from among the members.

"SEC. 8004. FUNCTIONS.

"(a) FUNCTIONS.—The Panel shall accomplish the following:

"(1) INTERACTIVE PROCESS.—Establish an interactive process for the development of national content standards and national school delivery standards which, to the greatest extent feasible, reflect the comments and recommendations of educators and other knowledgeable individuals across the Nation.

"(2) RECOMMENDATIONS.—Make recommendations to the Secretary regarding the selection of groups and organizations for grants to develop national content standards, national school delivery standards, and model assessments of the national content standards for mathematics.

"(3) CERTIFICATION.—Certify, after review by the technical review committee established under section 8005, the voluntary national standards submitted by the groups under sections 8011(c) and 8012(c).

"(4) EVALUATION.—Propose the indicators to be used to measure the national education goals and report progress in achieving such goals, the baselines and benchmarks against which progress may be evaluated, and the format for an annual report card to the Nation under section 8006.

"(5) MEASUREMENT.—Select interim and final measures and appropriate measurement tools to be developed as necessary in each goal area.

"(6) DATA.—Assure, through requirements for State reports, that data on student achievement is reported in the context of other relevant information about student, school, and system performance.

"(7) REPORT CARD.—Issue an annual report card that—

"(A) reports on the Federal actions taken to fulfill responsibilities to education;

"(B) identifies gaps in existing educational data;

"(C) recommends improvements in the methods and procedures for assessments; and

"(D) proposes changes in national and international measurement systems.

"(b) PERFORMANCE OF FUNCTIONS.—In carrying out its responsibilities, the Panel shall operate on the principle of consensus.

"(c) DATA COLLECTION.—The Panel shall make arrangements with any appropriate entity to generate or collect such data as may be necessary to appropriately assess progress toward meeting the national education goals.

"SEC. 8005. REVIEW COMMITTEE.

"(a) COMMITTEE ESTABLISHED.—

"(1) COMMITTEE MEMBERSHIP.—The Panel shall establish a technical review committee (referred to in this part as the 'Committee') of not more than 16 members who shall advise and assist the Panel in carrying out its functions under section 8004(a).

"(2) PUBLIC NOMINATION.—In appointing individuals to serve on the committee, the Panel shall solicit and consider nominations made by the public.

"(3) COMMITTEE COMPOSITION.—The committee shall be composed of—

"(A) 8 educators, including individuals with expertise regarding standards and assessment; and

"(B) 8 members of the public, including individuals who represent parents, business, civil rights advocates, child advocates, and State and local public officials.

"(b) COMMITTEE REVIEW.—

"(1) REVIEW OF STANDARDS.—After the development of each set of national content standards under section 8011 and school delivery standards under section 8012, the committee shall review such standards to determine if such standards—

"(A) are developed consistently with the process established by the Panel under section 8004(a)(1);

"(B) are sufficiently general to be adopted by any State; and

"(C) are of high quality.

"(2) COMMITTEE RECOMMENDATION.—The committee shall report its determination to the Panel regarding whether such standards should be certified by the Panel.

"SEC. 8006. ANNUAL REPORT CARD.

"(a) IN GENERAL.—The Panel shall prepare and submit to the President, the appropriate committees of Congress, and the Governor of each State a national report card, that shall include the following:

"(1) ANALYSIS.—An analysis of the progress of the United States toward achieving the national education goals.

"(2) COMMENTS AND RECOMMENDATIONS.—Comments and recommendations of—

"(A) Federal and State policymakers;

"(B) experts on teaching and child development;

"(C) experts on measurements;

"(D) experts on curriculum;

"(E) experts on educational administration; and

"(F) representatives of business.

"(3) IDENTIFICATION AND IMPROVEMENT.—Based on the findings of the Panel and an analysis of the views and comments of all interested parties, the Panel may identify continuing gaps in existing educational data.

"(b) CONTINUATION.—The Panel shall continue to issue a national report card on an annual basis for the duration of the existence of the Panel.

"(c) FORMAT.—National report cards shall be presented in a form that is understandable to parents and the general public.

"(d) LIMITATION.—National report cards may not include data using the achievement goals established under section 406(i)(6)(A)(ii) of the General Education Provisions Act unless such goals have been reviewed and approved by the Commissioner of the National Center for Education Statistics.

"SEC. 8007. POWERS OF THE PANEL.

"(a) HEARINGS.—

"(1) IN GENERAL.—The Panel shall, for the purpose of carrying out this part, conduct such hearings, sit and act at such times and places, take such testimony, and receive such evidence, as the Panel considers appropriate.

"(2) PUBLIC HEARINGS.—In carrying out this part, the Panel shall conduct public hearings in different geographic areas of the country, both urban and rural, to receive the reports, views, and analyses of a broad spectrum of experts and the public regarding the functions of the Panel described in section 8004(a).

"(b) INFORMATION.—The Panel may secure directly from any department or agency of the United States, information necessary to enable the Panel to carry out this part. Upon request of the Chairperson of the Panel, the head of a department or agency shall furnish such information to the Panel to the extent permitted by law.

"(c) POSTAL SERVICES.—The Panel may use the United States mail in the same manner and under the same conditions as other departments and agencies of the United States.

"(d) ADMINISTRATIVE AND SUPPORTIVE SERVICES.—The Secretary of Education shall provide to the Panel, on a reimbursable basis, administrative support services as the Panel may request.

"SEC. 8008. ADMINISTRATIVE PROVISIONS.

"(a) MEETINGS.—The Panel shall meet on a regular basis, as necessary, at the call of the Chairperson of the Panel or a majority of its members.

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

"(c) VOTING.—No individual may vote or exercise any of the powers of a member by proxy.

"(d) FEDERAL ADVISORY COMMITTEE ACT.—Sections 10 and 11 of the Federal Advisory Committee Act (5 U.S.C. App.) are the only sections

of such Act that shall apply with respect to the Panel and the technical review committee.

"SEC. 8009. DIRECTOR AND STAFF; EXPERTS AND CONSULTANTS.

"(a) DIRECTOR.—The Chairperson of the Panel shall, without regard to the provisions of title 5, United States Code, relating to the appointment and compensation of officers or employees of the United States, appoint a Director to be paid at a rate not to exceed the rate of basic pay payable for level V of the Executive Schedule.

"(b) APPOINTMENT AND PAY OF STAFF.—

"(1) COMPETITIVE SERVICE.—The Chairperson of the Panel may appoint personnel as the Chairperson considers appropriate without regard to the provisions of title 5, United States Code, governing appointments to the competitive service.

"(2) PAY RATES.—The staff of the Panel may be paid without regard to the provisions of chapter 51 and subchapter III of chapter 53 of title 5, United States Code, relating to classification and General Schedule pay rates, but shall not be paid a rate that exceeds the rate of basic pay payable for GS–15 of the General Schedule.

"(c) EXPERTS AND CONSULTANTS.—The Panel may procure temporary and intermittent services of experts and consultants under section 3019(b) of title 5, United States Code.

"(d) STAFF OF FEDERAL AGENCIES.—Upon the request of the Panel, the head of any department or agency of the United States is authorized to detail, on a reimbursable basis, any of the personnel of that agency to the Panel to assist the Panel in its duties under this part.

"SEC. 8010. AUTHORITY FOR GRANT OR CONTRACT.

"The Secretary shall make grants to provide for the following:

"(1) OPERATION.—The operation and activities of the Panel.

"(2) CONTENT DEVELOPMENT.—The development of national content standards.

"(3) SCHOOL DELIVERY STANDARDS DEVELOPMENT.—The development of national school delivery standards.

"SEC. 8011. NATIONAL CONTENT STANDARDS.

"(a) DEVELOPMENT OF CONTENT STANDARDS.—The Panel shall establish the process by which content standards shall be developed. Such process shall provide for several consecutive drafts of standards which incorporate the comments and recommendations of educators and other knowledgeable individuals across the Nation.

"(b) GRANTS FOR CONTENT STANDARDS.—

"(1) GRANT RECOMMENDATIONS.—The Panel shall make recommendations to the Secretary regarding the selection of groups and organizations representing teachers and other practitioners in a broad range of academic subject areas, including mathematics, English, science, history, and geography, to receive grants to develop content standards in accordance with the process required under subsection (a).

"(2) TIME AND CONDITIONS.—In making recommendations to the Secretary, the Panel shall propose time periods and other conditions for such grants that will ensure that the process under subsection (a) can be followed.

"(3) GRANT DENIAL.—The Secretary may decline to make a grant only if such grant violates a provision of law or the general administrative regulations of the Department which govern the making of grants.

"(c) CONTENT STANDARDS RATIFICATION.—Following the development of a set of such standards, the developing organization shall organize a meeting of its members, review the standards, and by formal action ratify that such standards are of high quality and meet the following requirements:

"(1) BEST EVIDENCE.—Such standards reflect the best evidence available regarding the knowledge and skills that students should acquire in the academic subject area of such standards.

"(2) CHALLENGE.—Such standards are sufficiently challenging to ensure that American students receive instruction at world-class levels.

"(d) CONTENT STANDARDS CERTIFICATION.—

"(1) PROCESS CONFORMANCE.—After ratification of a set of standards under subsection (c), the Panel shall review the process by which such standards were developed and consult with the Committee established under section 8005 to determine and certify conformance with the process established under subsection (a).

"(2) CERTIFICATION REPORT.—The Panel shall submit to the Congress, the President, and the public a report regarding such certified content standards not later than December 31, 1994.

"SEC. 8012. SCHOOL DELIVERY STANDARDS.

"(a) DEVELOPMENT OF SCHOOL DELIVERY STANDARDS.—The Panel shall establish the process by which school delivery standards shall be developed. Such process shall provide for several consecutive drafts of standards which incorporate the comments and recommendations of educators and other knowledgeable individuals across the Nation.

"(b) GRANTS FOR SCHOOL DELIVERY STANDARDS.—

"(1) SELECTION.—The Panel shall make a recommendation to the Secretary regarding the selection of a consortium of individuals and organizations to receive a grant to develop school delivery standards. To the extent possible, such consortium shall include the participation of—

"(A) Governors (except Governors serving on the Panel);

"(B) chief State school officers;

"(C) teachers (especially teachers involved in the development of content standards);

"(D) principals;

"(E) superintendents;

"(F) State and local school board members;

"(G) parents;

"(H) State legislators;

"(I) representatives of businesses;

"(J) representatives of regional accrediting associations;

"(K) representatives of federally funded entities referred to in clauses (i) and (ii) of section 405(d)(4)(A) of the General Education Provisions Act; and

"(L) civil rights groups and organizations (including those associated with the rights of individuals with disabilities).

"(2) TIME AND CONDITIONS.—In making a recommendation to the Secretary, the Panel shall propose a time period and other conditions for such grant that shall ensure that the process established under subsection (a) may be followed.

"(3) GRANT DENIAL.—The Secretary may decline to make a grant only if such grant would violate a provision of law or the general administrative regulations of the Department which govern the making of grants.

"(c) SCHOOL DELIVERY STANDARDS RATIFICATION.—After developing such school delivery standards, the consortium shall convene a meeting to review and ratify that such standards meet the following requirements:

"(1) STATE ADOPTION.—The standards are sufficiently generic to be adopted for use in any State without unduly restricting State and local prerogatives regarding the instructional methods to be employed.

"(2) FAIR OPPORTUNITY.—The standards are likely, if properly implemented, to ensure that each student in a school has a fair opportunity to achieve the knowledge and skills set out in the national content standards and the work force readiness standards under title IX.

"(d) SCHOOL DELIVERY STANDARDS CERTIFICATION.—

"(1) PROCESS CONFORMANCE.—After ratification of a set of standards under subsection (c), the Panel shall review the process by which such standards were developed and consult with the Committee established under section 8005 to determine and certify that such standards are of high quality and that they conform with the process established under subsection (a).

"(2) CERTIFICATION REPORT.—The Panel shall submit to the Congress, the President, and the public a report containing such certified school delivery standards not later than December 31, 1994.

"SEC. 8013. GENERAL PROVISIONS RELATING TO STANDARDS.

"(a) CONTINUED REVIEW.—The Panel shall periodically (not more than once every 3 years) review national content standards to determine whether such standards continue to reflect the best evidence available regarding what children should know.

"(b) NO INFLUENCE.—Nothing in this part shall be construed to permit the Secretary to prescribe or influence the content of particular standards.

"SEC. 8014. ASSESSMENT.

"While taking into consideration the existing research on assessment that the Office of Educational Research and Improvement is addressing, the Panel shall make recommendations to the Secretary regarding such research on authentic assessment which such Office should undertake.

"SEC. 8015. EVALUATION AND REPORTS.

"(a) EVALUATION.—The Secretary shall, through the National Academy of Sciences, conduct an evaluation and issue reports that include the following:

"(1) EVALUATION REPORT.—An evaluation of the effectiveness of—

"(A) school delivery standards described in section 8012(c)(2);

"(B) research on authentic assessment conducted by the Office of Educational Research and Improvement; and

"(C) the model assessments for national content standards for mathematics.

"(2) RECOMMENDATIONS.—Recommendations regarding the need for additional criteria to determine the validity, reliability, and fairness of assessments;

"(3) CRITERIA.—Criteria for evaluating—

"(A) whether assessments are substantially aligned to the national content standards; and

"(B) the sufficiency of evidence regarding the technical quality of an assessment in relation to its intended use.

"(b) REPORTS.—

"(1) INTERIM REPORT.—The National Academy of Sciences shall submit to the Congress, Secretary of Education, and the public an interim report regarding the material described in subsection (a) not later than December 31, 1993.

"(2) FINAL REPORT.—The National Academy of Sciences shall submit to the Congress, Secretary of Education, and the public a final report regarding the material described in subsection (a) not later than December 31, 1994.

"SEC. 8016. DEFINITIONS.

"For purposes of this title—

"(1) the term 'content standards' means a description, in a particular subject area, of the knowledge and skills children should acquire at each grade level;

"(2) the term 'school delivery standards' means the standards necessary to ensure that each student in a school has a fair opportunity to achieve the knowledge and skills set out in the national content standards and work force readiness standards including evidence that—

"(A) the school has formally adopted curriculum reflecting the national content standards;

"(B) the curriculum is being taught in the classroom;

"(C) teachers understand the curriculum and are able to teach it;

"(D) teachers and students have access to curricular materials (textbooks, instructional materials) that are necessary for mastery of the standards;

"(E) the school has instructional methods and policies in place to promote mastery of the content standards by all students (including no tracking, policies to help children stay in school, fair and equitable discipline policies, and appropriate policies concerning crime, violence, and drug use);

"(F) school administrators are well prepared; and

"(G) the school facilities have the requisite libraries and laboratories necessary to provide an opportunity to learn.

"SEC. 8017. AUTHORIZATION OF APPROPRIATIONS.

"(a) AUTHORIZATION FOR PANEL.—There are authorized to be appropriated $2,000,000 for each of the fiscal years 1992 through 1996 for grants to the National Education Goals Panel established under section 8003 to carry out its duties under this part.

"(b) AUTHORIZATION FOR EVALUATIONS AND REPORTS.—There are authorized to be appropriated $2,000,000 for fiscal years 1992 through 1996 for the National Academy of Sciences to carry out section 8015.

"(c) AUTHORIZATION FOR NATIONAL CONTENT STANDARDS.—There are authorized to be appropriated $10,000,000 for fiscal year 1992 and such sums as may be necessary for each of the fiscal years 1993 through 1996 to carry out section 8011.

"(d) AUTHORIZATION FOR NATIONAL SCHOOL DELIVERY STANDARDS.—There are authorized to be appropriated a total of $5,000,000 for the fiscal years 1992 and 1993 to carry out section 8012.

"PART B—NEIGHBORHOOD SCHOOLS IMPROVEMENT

"SEC. 8101. SHORT TITLE.

"This part may be cited as the 'Neighborhood Schools Improvement Act'.

"SEC. 8102. CONGRESSIONAL FINDINGS.

"The Congress finds that—

"(1) all students can learn and must realize their potential if the United States is to prosper;

"(2) the reforms in education of the last 15 years have achieved good results, but these efforts often have been limited to a few schools or to a single part of the educational system;

"(3) additional pilot projects will have the same limited effect as previous reforms and isolated changes in policy will most likely have minimal impact;

"(4) strategies must be developed by States and communities to support the revitalization of all local schools by fundamentally changing the entire system of education through comprehensive, coherent, and coordinated improvement while recognizing the diverse cultural and language backgrounds and learning abilities of students;

"(5) parents, teachers and other local educators, and community leaders must be involved in developing system-wide reform strategies that reflect the needs of their individual communities;

"(6) States and local educational agencies, working together, must immediately set about developing and implementing such system-wide reform strategies if the Nation is to educate all children to meet their full potential and achieve national goals;

"(7) increasing funding for existing Federal education programs at levels that will enable them to fulfill their mission is a critical part of assisting States and local educational agencies in their school improvement efforts; and

"(8) additional Federal funds should be targeted to support State and local initiatives and to leverage State and local resources for designing and implementing system-wide reform plans.

"SEC. 8103. PURPOSE.

"It is the purpose of this part to raise the quality of education for all students by supporting a 10-year broad based public effort to promote coherent and coordinated changes in the system of education throughout the Nation at the State and local levels without jeopardizing funding for existing Federal education programs.

"SEC. 8104. PROGRAM AUTHORIZED.

"The Secretary is authorized, in accordance with the provisions of this part, to make grants to State educational agencies to enable States and local educational agencies to reform and improve the quality of education throughout the Nation. Such grants shall be used to—

"(1) develop innovative educational reform plans, which include State achievement goals, a means for developing or adopting high quality, challenging curricular frameworks and coordinated curricular materials, professional development strategies, and assessments; and

"(2) implement reforms and plans to improve the education system at the State and local levels.

"SEC. 8105. APPLICATION.

"(a) IN GENERAL.—If a State desires to receive assistance under this part, the State educational agency shall submit an application to the Secretary at such time, in such manner, and accompanied by such additional information as the Secretary may reasonably require. Such application shall cover a 5-year period.

"(b) CONSIDERATION OF APPLICATIONS.—Each such application shall—

"(1) contain satisfactory evidence that the State educational agency has or will have authority, by legislation if necessary, to implement the plan required under section 8106;

"(2) provide an assurance that the State has a strategy for ensuring broad participation in the planning process, including parents, students, teachers, principals, superintendents, local school board members, representatives of businesses with an interest in educational improvement, representatives of rehabilitation organizations, representatives of the employment and training network (including the vocational education system), the deans of colleges of education, representatives of community-based organizations, testing and curriculum experts, the director of the State office responsible for teacher certification, and the director of the State human services agency, to establish the goals and to refine them in the future, as well as participate in the development of all other components of the plan;

"(3) provide an assurance that the State will notify the public (including individuals with limited English proficiency), through print and electronic media (and other accessible formats) and notice to each local educational agency—

"(A) that the State has made application for funds under this part;

"(B) of the purposes for which the funds will be used; and

"(C) that the State is developing a plan under section 8106;

"(4) provide an assurance that all students will have equal access to the curricular frameworks, high quality curricular materials, and well-qualified teachers;

"(5) describe actions taken and resources identified or committed to meet the requirements of this title;

"(6) provide an assurance that the applicant will prepare and submit to the Secretary, annual evaluations of and reports concerning the State program; and

"(7) provide an assurance that the State will carry out the provisions of section 8106.

"(c) APPROVAL.—The Secretary shall approve an application and any amendment to the application if the application or the amendment to such application meets the requirements of this section and is of sufficient quality to meet the objectives of this part. The Secretary shall not finally disapprove an application or an amendment to such application except after giving reasonable notice, technical assistance, and an opportunity for a hearing.

"(d) REAPPLICATION.—(1) A State educational agency may apply for assistance for a second 5-year period and such application shall be approved by the Secretary if the State—

"(A) has met all of its reporting requirements; and

"(B) demonstrates that it has made reasonable progress in carrying out its plan.

"(2) The Secretary shall not finally disapprove an application or an amendment to such application except after giving reasonable notice, technical assistance, and an opportunity for a hearing.

"SEC. 8106. DEVELOPMENT AND APPROVAL OF STATE PLAN.

"(a) ESTABLISHMENT OF PANEL.—Each State program assisted under this title shall establish a panel to develop a statewide reform plan. Such panel shall consist of—

"(1) the chief executive of the State (or designee);

"(2) the presiding officers and the minority leaders of the State legislature (or designees);

"(3) the chief State school officer;

"(4) the head of the office that coordinates higher education programs in the State or, if there is no such office, the head of the office designated under section 2008 of the Dwight D. Eisenhower Mathematics and Science Education Act (20 U.S.C. 2988) (or designee);

"(5) except in the case of a State with a single local educational agency, an individual nominated by representatives of local educational agencies that comprise between 5 to 10 percent of the local educational agencies in the State with the lowest average per pupil expenditures; and

"(6) individuals nominated by State organizations representing each of the following:

"(A) Teachers.

"(B) School administrators.

"(C) Local school boards.

"(D) Parents.

"(E) Businesses.

"(F) State board of education.

"(G) Students.

"(b) ADDITIONAL MEMBERS.—(1) The first meeting of such panel shall be convened by the chief State school officer. At such meeting, the panel members designated and nominated in subsection (a) shall select additional panel members, including—

"(A) the chairpersons of the State legislative committees with jurisdiction over education;

"(B) director of the parent training and information center (for children with disabilities);

"(C) individuals reflecting the ethnic and racial diversity of the general population of the State; and

"(D) (except in the case of a State with a single local educational agency) an individual nominated by representatives of the 5 local educational agencies with the highest number of students eligible for services under part A of chapter 1 of title I of this Act.

"(2) The membership of the panel shall—

"(A) be geographically representative of all areas of the State;

"(B) reflect the racial and ethnic diversity of the population of the State; and

"(C) not exceed 25 in number.

"(3) Following the selection of additional members, the chief State school officer shall convene a meeting of the full panel to establish procedures regarding the operation of subsequent meetings, including the designation of a panel chairperson, consistent with applicable State law.

"(c) DEVELOPMENT OF STATE PLAN.—(1) The panel shall develop a plan that—

"(A) establishes State goals to maximize achievement for all children in conjunction with national educational goals;

"(B) establishes curricular frameworks in specific subject matter areas that incorporate the goals established under subparagraph (A) consistent with requirements of Federal law;

"(C) provides for the adoption of school delivery standards;

"(D) provides for the development or adoption of instructional materials to assist the implementation of the curricular frameworks consistent with requirements of Federal law;

"(E) allocates resources to implement such a system-wide reform plan;

"(F) provides for the establishment or adoption of a valid, reliable, and fair assessment system based upon the curricular frameworks that is capable of accurately measuring the skills and knowledge required to meet State goals;

"(G) provides for professional development strategies necessary for achieving the State goals;

"(H) establishes a process for reviewing Federal, State, and local laws and regulations and for recommending changes in such laws and regulations to further state-wide reform;

"(I) provides a process for selecting local educational agencies for participation in local system-wide reform efforts;

"(J) provides for the development of objective criteria and measures against which the success of local plans can be evaluated;

"(K) provides for the ongoing evaluation of the effectiveness of the State plan in closing the gap between high and under-achieving students to be assessed using achievement and other measures such as attendance, grade retention, and dropout rates;

"(L) provides for the availability of curricular frameworks, curricular materials, and professional development in a manner ensuring equal access by all local educational agencies in the State;

"(M) provides for a thorough review of the State's school finance program, focusing on the adequacy of, and disparities in, the financial resources available to each local educational agency, and how such disparity affects the ability of the State educational agency and local educational agencies to develop and implement reform activities consistent with this part;

"(N) describes the steps the State educational agency shall take to ensure that successful programs and practices supported by subgrants awarded to local educational agencies under this part shall be disseminated to other local educational agencies in the State;

"(O) provides for the development of an adequate research, training, and evaluation capacity within the State to further the purposes of this part;

"(P) describes methods of coordinating health, rehabilitation, and social services with education through State interagency cooperation and agreements;

"(Q) provide for the dissemination of information on curricular frameworks and supportive services for students with disabilities to enable such students to participate;

"(R) describes the steps the State educational agency shall take to provide remedial assistance to students, schools, and local educational agencies that are identified through the assessment system under subparagraph (E) as having a need for such assistance; and

"(S) provides for the development of a strategy to coordinate the use and integration of technology in schools throughout the State for the purposes of instruction (including approaches such as live interactive distance learning), implementation of the plan, and training of parents, teachers, and administrators.

"(2) In developing the plan, the panel shall—

"(A) emphasize outcome measures rather than prescribe how the State and local educational agencies should achieve such outcomes;

"(B) review recent innovations by other States and by national professional organizations with expertise in educational goals, curricula, and assessment;

"(C) review existing Federal education programs and how they can contribute to the State plan; and

"(D) ensure broad-based participation through regular notice and dissemination of information to the public (including individuals with limited English proficiency) using print and electronic media and other accessible formats.

"(3) The panel in developing the plan, shall solicit and consider the views and recommendations of persons having knowledge of the needs of students with disabilities, including parents, students, and special education teachers and administrators.

"(4) Following the development of the plan, the panel shall seek public comment by—

"(A) publishing the plan with a comment period of at least 60 days, or

"(B) notifying the public (including individuals with limited English proficiency) through electronic and print media (and other accessible formats) and by conducting regional hearings.

After providing the public with an opportunity to comment on the plan, the panel shall consider the public comments and make appropriate changes.

"(5) The plan shall be submitted to the State for review and approval by the State educational agency, except that any changes to such plan shall be made with the concurrence of the panel. Prior to implementing the plan, the State educational agency shall submit such plan to the Secretary for approval. In the event that the State has previously accomplished any of the reform activities required under this part in a specific subject area or set of grade levels, the State is not required to include them in the plan but shall include a request for a waiver, including a description of such accomplishments.

"(6)(A) The Secretary shall approve a State's plan if such plan—

"(i) meets the requirements of this section; and

"(ii) provides evidence that the State has, or will have, the resources necessary to carry it out.

"(B) The Secretary shall not finally disapprove a plan or an amendment to such plan except after giving reasonable notice, technical assistance, and an opportunity for a hearing.

"(d) REVIEW OF STATE PLAN.—The panel and the State educational agency shall review on an ongoing basis, the implementation of the State plan for the period during which the State receives funding under this part. The results of such review shall be prepared in writing by the panel and included by the State in its annual report to the Secretary under section 8113(a).

"SEC. 8107. STATE USES OF FUNDS.

"(a) USES OF FUNDS.—Funds allotted by the Secretary under section 8111(a)(2) and State and private funds contributed to make up the total cost of a State program as provided in section 8111(b) shall be used by a State with an approved application for the—

"(1) development and implementation of the State plan, including the establishment of State goals, curricular frameworks, school delivery standards, and assessment systems;

"(2) activities of the panel (including the travel expenses of the members of such panel);

"(3) subgrants to local educational agencies;

"(4) technical assistance (including dissemination of information) to local educational agencies to assist in developing and carrying out their plans; and

"(5) evaluation, reporting, and data collection.

"(b) LOCAL EDUCATIONAL AGENCIES.—In the first year that a State receives an allotment under this part, the State educational agency may make subgrants for the purpose of developing local plans as provided in section 8108 consistent with section 8106(c)(1)(I). In the second year, and in each succeeding year, from not less than 75 percent of the total cost of a State's program, the State educational agency shall make subgrants to local educational agencies which shall include—

"(1) at least one subgrant to a local educational agency in each congressional district; and

"(2) a subgrant to the local educational agency with the greatest number of disadvantaged children in the State.

"(c) SPECIAL PROVISION.—Funds available under section 8111 shall be used to carry out the plan in a manner which ensures that all children, especially those identified through the assessment process (using achievement and other measures) as not achieving satisfactorily, are afforded ample opportunity to reach individual, local, State, and national goals.

"SEC. 8108. DEVELOPMENT AND APPROVAL OF LOCAL PLANS.

"(a) LOCAL COMMITTEE.—(1) A local educational agency which desires to receive a subgrant under this section shall establish a committee comprised of—

"(A) the chief elected officer of the unit of general purpose local government with boundaries which are most closely aligned with the geographic boundaries of the local educational agency;

"(B) the superintendent of the local educational agency;

"(C) a representative nominated by the local school board;

"(D) a representative nominated by a local teacher association;

"(E) the director of special education of the local educational agency;

"(F) a representative nominated by an influential business association with business members that have an interest in educational improvement and operate in a geographic area that is most closely aligned with the local educational agency;

"(G) a representative nominated by the parents of children served by part A of chapter 1 of title I of this Act; and

"(H) the elected head of a district-wide student organization, if one exists.

"(2)(A) The first meeting of such committee shall be convened by the superintendent to enable the committee members designated and selected in paragraph (1) to select additional members including—

"(i) parents of students in elementary, middle, and secondary schools;

"(ii) a representative nominated by parents of children served under the Individuals with Disabilities Education Act (20 U.S.C. 1400 et seq.);

"(iii) representatives of community-based organizations;

"(iv) members of the general public with a strong interest in education;

"(v) principals;

"(vi) teachers;

"(vii) school counselors, psychologists, and social workers;

"(viii) curriculum, testing, and evaluation supervisors; and

"(ix) a representative of a local higher education institution.

"(B) The total number of committee members may not exceed 30 and shall reflect the racial and ethnic diversity of the geographical area served by the local educational agency.

"(3) Following the selection of the additional members, the superintendent shall convene a

meeting of the full committee to establish procedures regarding the operation of subsequent meetings, including the designation of a committee chairperson, consistent with applicable State and local law.

"(4) Each meeting of such committee shall be open to the public and accessible to individuals with disabilities.

"(5) The committee shall develop the local plan described in subsection (b).

"(6) A local educational agency which has established a district-wide reform committee pursuant to State law may add members and responsibilities to such committee to satisfy the requirements of this section.

"(b) LOCAL PLAN.—(1) As described in the State reform plan, and consistent with the recommendations of the panel established under section 8106, the State shall make subgrants to local educational agencies. Each subgrant shall be of a sufficient amount to develop or implement a locally developed plan which—

"(A) is formally approved by the local educational agency;

"(B) describes a process to ensure broad-based community participation in the development of the local plan, including parents, students, teachers, principals, representatives of rehabilitation organizations, representatives of the employment and training network, representatives of local business associations, and representatives of community-based organizations;

"(C) provides assurance that the local educational agency shall provide for an ongoing evaluation of the effectiveness of the plan in meeting State and local goals, and that such agency will annually review the local plan;

"(D) proposes district-wide reform which includes—

"(i) the setting of local goals;

"(ii) a process to ensure that—

"(I) curricular and instructional materials reflect State goals, State curricular frameworks and local goals; and

"(II) an assessment system is developed or adopted which is curriculum-based and includes achievement and other indicators that validly, fairly, and reliably measure progress of all students (including students with limited English proficiency and students with disabilities) toward meeting State and local goals;

"(iii) the provision of teacher and administrator training; and

"(iv) a review and restructuring, if necessary, of the administrative and staffing structure of the local educational agency and individual schools within such agency.

"(E) describes how parents and secondary school students are involved in the development, operation, and evaluation of programs and activities assisted under this part;

"(F) provides for the availability of curricular frameworks, curricular materials, and professional development in a nondiscriminatory manner;

"(G) provides for the ongoing evaluation of the effectiveness of the local plan in closing the gap between high and under-achieving students using achievement and other measures such as attendance, grade retention, and dropout rates;

"(H) reviews existing Federal education programs, including early childhood education programs, and how they contribute to the local plan;

"(I) based on the recommendations of students, teachers and principals, identifies and describes Federal, State, and local laws and regulations that may impede the implementation of the plan, if any;

"(J) describes the process that will be used to ensure that the funds received will be used to the maximum extent at the local school level;

"(K) describes the steps the local educational agency shall take to ensure that successful practices, supported by assistance provided to schools under this part shall be disseminated to other schools in the local educational agency; and

"(L) provides special attention to the needs of minority students, including instructional programs and activities that—

"(i) reflect cultural awareness and multi-cultural diversity;

"(ii) encourage alternative learning styles; and

"(iii) encourage such students in elementary and secondary schools to aspire to enter higher education programs.

"(2) In making subgrants to local educational agencies under this subsection, the State shall give priority consideration to local plans which are broadly supported within their communities as evidenced by—

"(A) the comments of the local committee required under subsection (e)(2);

"(B) the record of the hearings conducted by local educational agencies under subsection (d)(2); and

"(C) letters and resolutions submitted by local groups and organizations.

"(c) ASSISTANCE FOR LOCAL PLAN DEVELOPMENT.—The State shall provide technical assistance in the development of a local plan where necessary which—

"(1)(A) is to be submitted by a local educational agency with a large number or percentage of educationally disadvantaged students, students who have dropped out of school, or students with disabilities; or

"(B) is to be submitted by a local educational agency which demonstrates need for such assistance;

"(2) promotes comprehensive, district-wide reform; and

"(3) has the support of parents, teachers, businesses, and community-based service organizations.

"(d) SUBMISSION OF LOCAL PLAN.—(1) The committee shall submit the plan to the local educational agency for review.

"(2) Prior to consideration of the plan for approval, the local educational agency, with proper public notice (including notice in accessible formats), shall conduct public meetings to:

"(A) receive an explanation of all aspects of the plan by the local committee;

"(B) review and discuss the plan, including—

"(i) whether it meets the requirements of this section;

"(ii) the revenue, resource, and budget implications of the plan for the local educational agency; and

"(iii) the effect of the plan on staffing, organization, personnel policies, and collective bargaining agreements of the local educational agency;

"(C) discuss possible modifications to the plan; and

"(D) solicit the views of other interested individuals, including the superintendent, principals, teachers, other officials of the local educational agency, parents, and students.

"(e) CONSIDERATION OF LOCAL PLAN.—

"(1) After the meetings required under subsection (d), the local educational agency, with proper notice, shall convene a public meeting to consider the local plan and shall—

"(A) approve the plan with or without modification;

"(B) disapprove the plan; or

"(C) return the plan to the committee for further development.

"(2) A local educational agency which approves a local plan shall include the written comments of the local committee prior to submitting such plan to the State for consideration for a subgrant.

"(3) Additional development, submission, and consideration of the local plan shall be consistent with the provisions of this section.

"(f) ADDITIONAL SUBGRANT.—A local educational agency may not receive an additional subgrant in a succeeding year unless such local educational agency demonstrates reasonable progress in the implementation of its local plan and, after its third year of funding under this part, provides evidence of improved student achievement.

"(g) REVIEW OF LOCAL PLAN.—(1) The committee and the local educational agency shall review, on an ongoing basis, the progress of the local educational agency in implementing the local plan for the period during which such agency receives funding under this part.

"(2) The committee shall annually submit a written progress report to the local educational agency, the State panel established under section 8106, and the State educational agency. The local educational agency may submit a separate report, including comments on the report submitted by the committee.

"SEC. 8109. LOCAL USES OF FUNDS.

"(a) DEVELOPMENT OF PLAN.—A local educational agency which receives a subgrant under this part shall use the funds for the purpose of district-wide reform, consistent with the State and local plans. Authorized activities may include—

"(1) development and implementation of the local plan;

"(2) New American Schools which reflect the best available knowledge regarding teaching and learning for all students in public schools, which use the highest quality instructional materials and technologies, and which are designed to meet national, State, and local educational goals as well as the particular needs of their students and communities;

"(3) systems such as merit schools which reward public schools with students who, taken as a whole, demonstrate improved performance on curriculum related outcome measures accepted by the States or developed in the State assessment process;

"(4) activities that supplement early childhood education programs and increase the readiness of young children to learn;

"(5) site-based management which places maximum decisionmaking authority at the individual school level and that, at a minimum, involves teachers and other professional staff;

"(6) activities which maximize parental involvement in improving the education of their children;

"(7) coordination of health, rehabilitation, and social services with education;

"(8) activities that provide incentives for higher levels of student performance and lead to improved student motivation and achievement;

"(9) planning to improve the use of technology (including instructional and assistive technology) in schools;

"(10) professional development activities of teachers and local administrators;

"(11) replication of successful education programs or components of such programs that will enable the local educational agency to attain the goals of the State and local plans;

"(12) provision of technical assistance to individual schools to enable such schools to attain the goals of the State and local plans;

"(13) development or adoption, with substantial involvement of principals, teachers, and other administrators, of curricula, instructional materials, and assessment instruments which are consistent with State frameworks and local goals;

"(14) support initiatives of teachers related to the State curricular frameworks, development and implementation of the local plan, and innovative approaches to improving student achievement; and

"(15) support of initiatives similar to those authorized under paragraph (14) by local school

cooperatives or consortia which are a part of an educational reform plans.

"(b) INVOLVEMENT OF PRINCIPALS AND TEACHERS.—A local educational agency shall involve teachers and school principals in the development, operation, and evaluation of activities assisted by funds provided under this part.

"SEC. 8110. AUTHORIZATION OF APPROPRIATIONS.

"For the purpose of carrying out this part, there are authorized to be appropriated $800,000,000 for the fiscal year 1992, and such sums as may be necessary for the fiscal years 1993 through 2001.

"SEC. 8111. ALLOTMENT OF FUNDS.

"(a) TO STATES.—(1) From funds appropriated under section 8110, the Secretary shall allot to the Secretary of the Interior for each fiscal year an amount equal to ½ of 1 percent of the funds appropriated, not to exceed $2,000,000 in any fiscal year, to benefit Indian students enrolled in schools funded by the Department of the Interior for Indian students. The provisions of subsection (b) of this section shall not apply to payments made under this paragraph.

"(2) From the remaining amount appropriated under section 8110, the Secretary shall make annual grants to States with approved applications based upon the formula established in part A of chapter 1 of title I of this Act.

"(3)(A) The Assistant Secretary of the Interior for Indian Affairs shall reserve, from the allotment to carry out this subsection, an amount not to exceed $500,000 to provide, through the National Academy of Sciences, for an analysis of the costs associated with meeting the academic standards of the Bureau of Indian Affairs by each school funded by such Bureau. The results of such analysis shall be reported, in aggregate and school specific form, to the chairpersons of the Committee on Education and Labor of the House and the Select Committee on Indian Affairs of the Senate and to the Assistant Secretary of the Interior for Indian Affairs not later than 6 months following the date of enactment of this title.

"(B) Such analysis shall evaluate the cost of providing a program in each school funded by the Bureau of Indian Affairs during the academic year July 1, 1992, through June 30, 1993, and shall be based on—

"(i) the standards—

"(I) published by such Bureau in the Federal Register and in effect for Bureau operated schools on July 1, 1992, or

"(II) incorporated within grant or contract agreements in effect on such date for tribally controlled schools funded by such Bureau through the Student Equalization program under section 1126 of Public Law 95-561, as amended:

"(ii) the best projections of student counts and demographics, as independently determined by such Academy; and

"(iii) the pay and benefit schedules and other personnel requirements for each such Bureau funded school, in effect on July 1, 1992.

"(b) MATCHING REQUIREMENT.—(1) The Federal share under this part may not exceed—

"(A) 100 percent of the total cost of a program for the first year for which a State receives funds under this part;

"(B) 85 percent of the total cost of a program for the second year for which a State receives funds under this part;

"(C) 60 percent of the total cost of a program for the third year for which a State receives funds under this part;

"(D) 45 percent of the total cost of a program for the fourth year for which a State receives funds under this part; and

"(E) 33 percent of the total cost of a program for the fifth and any succeeding year for which a State receives funds under this part.

"(2) The remaining cost of a program that receives assistance under this part shall be paid by the State from State funds and may include contributions from the private sector.

"(3) The share of payments from sources other than funds appropriated under this part may be in cash or in kind fairly evaluated.

"(4) The requirements of this subsection shall not apply to the Virgin Islands, the Commonwealth of Puerto Rico, or Pacific outlying areas.

"(c) MAINTENANCE OF EFFORT.—A State is entitled to receive its full allotment of funds under this section for any fiscal year if the Secretary finds that either the combined fiscal effort per student or the aggregate expenditures within the State with respect to the provision of free public education for the preceding fiscal year was not less than 90 percent of such combined fiscal effort or aggregate expenditures for the second preceding fiscal year.

"(d) ADMINISTRATIVE COSTS.—From its annual allotment, a State may reserve for administration (not to include the activities of the panel) an amount not to exceed 4 percent or $250,000, whichever is greater.

"(e) ASSURANCES AND TERMS.—(1) The funds allotted to the Secretary of the Interior under subsection (a)(1) shall be made in a payment which shall be pursuant to an agreement between the Secretary and the Secretary of the Interior containing such assurances and terms as the Secretary determines will best achieve the purposes of this part. The agreement shall contain an assurance that—

"(A) a panel, as set forth in paragraph (2) of this subsection, shall be established;

"(B) a plan as required in section 8106 shall be developed by such panel; and

"(C) the provisions and activities required under sections 8106 and 8107 shall be carried out in the same time frames stipulated for the States in those sections, provided that the term 'local educational agencies' shall be interpreted to mean 'schools funded by the Bureau of Indian Affairs'.

"(2) To carry out the provisions of this part, and to develop the plan required under the agreement with the Secretary required in paragraph (1), the Secretary of the Interior shall establish a panel coordinated by the Assistant Secretary of the Interior for Indian Affairs to develop a system-wide reform plan. Such panel shall consist of—

"(A) the Assistant Secretary of the Interior for Indian Affairs (or designee);

"(B) the chairpersons and ranking minority members of the Committee on Education and Labor of the House of Representatives and the Select Committee on Indian Affairs of the Senate (or their designees);

"(C) the Director of the Office of Indian Education Programs of the Bureau of Indian Affairs and such heads of divisions in such office as the Director shall designate;

"(D) a representative nominated by each of the following—

"(i) the organization representing the majority of teachers and professional personnel in Bureau-operated schools;

"(ii) the organization representing the majority of nonteaching personnel in Bureau-operated schools, if not the same organization as in clause (i);

"(iii) school administrators of Bureau-operated schools;

"(iv) education line officers located in Bureau area or agency offices serving elementary or secondary programs;

"(v) the organization representing the majority of Bureau-funded contract or grants schools not serving students on the Navajo reservation;

"(vi) the organization representing the majority of Bureau-funded contract or grants schools serving students on the Navajo reservation;

"(vii) the organization representing the school boards required in Bureau-operated schools, not serving students on the Navajo reservation; and

"(viii) the organization representing the school boards required in Bureau-operated schools, serving students on the Navajo reservation.

In addition, the members of the panel stipulated above shall designate for full membership 3 tribal chairmen (or designees) or representatives of 3 national organizations which primarily represent national Indian education concerns, or a combination of these 2 classes, provided that the National Advisory Council on Indian Education, established under the Indian Education Act of 1972, (25 U.S.C. 2601 et seq.) shall not be included as an organization for consideration under this provision.

"SEC. 8112. AVAILABILITY OF INFORMATION AND TRAINING.

"(a) INFORMATION AND TRAINING.—Proportionate to the number of children in a State or in a local educational agency who are enrolled in private elementary or secondary schools—

"(1) a State educational agency or local educational agency which uses funds under this part to develop goals, curricular frameworks, curricular materials, and assessments shall, upon request, make information related to such goals, frameworks, materials, and assessments available to private schools; and

"(2) a State educational agency or local educational agency which uses funds under this part for teacher and administrator training shall provide in its plan for the training of teachers and administrators of private schools located in the geographical area served by such agency.

"(b) WAIVER.—If, by reason of any provision of law, a State or local educational agency is prohibited from providing for the equitable participation of teachers and administrators from private schools in training programs assisted with Federal funds provided under this part, or if the Secretary determines that a State or local educational agency has substantially failed or is unwilling to provide for such participation, the Secretary shall waive such requirements and shall arrange for the provision of training consistent with State goals and curricular frameworks for such teachers and administrators. Such waivers shall be subject to consultation, withholding, notice, and judicial review in accordance with section 1017 of this Act.

"SEC. 8113. ANNUAL PROGRESS REPORTS: TECHNICAL ASSISTANCE.

"(a) ANNUAL REPORT.—A State which receives funds under this part shall annually report to the Secretary—

"(1) regarding such State's progress in meeting its goals and plan;

"(2) describing proposed activities for the succeeding year; and

"(3) describing Federal regulations which may impede reform activities under this part as described in local plans approved by the State.

"(b) ADDITIONAL REPORT; TECHNICAL ASSISTANCE.—(1) Each State which receives funds under this part shall submit to the Secretary a biennial report on revenues available to, and expenditures by, each local educational agency in the State during the second preceding year. This report shall be developed in accordance with data definitions developed and published by the National Center for Education Statistics, and shall include at least the following information for each local educational agency within the State—

"(A) sources of revenues, identified by level of Government and type in the case of taxes;

"(B) types of educational services offered;

"(C) pupil enrollment, average daily attendance, and average daily membership;

"(D) demographic information on student population;

"(E) type and responsibilities of each local educational agency, including a description of grade levels served; and

"(F) age and condition of facilities, including the percent of budget expended for maintenance and operation.

"(2) After submission of the first biennial report under paragraph (1), a State, using data and definitions developed by the National Center on Education Statistics, shall include in each subsequent biennial report for each local educational agency the following information:

"(A) Tax assessment rates, policies, and practices.

"(B) The ability of such local educational agency to raise additional revenues.

"(C) The costs of providing elementary and secondary education services.

"(3) The report required by this subsection shall also contain a detailed description of the State's school finance programs including each program's—

"(A) purpose;

"(B) eligibility criteria;

"(C) sources of revenue;

"(D) aggregate level of funding;

"(E) mechanism or formula for distributing funds among local educational agencies; and

"(F) restrictions on use of funds.

"(4) In developing data definitions under this subsection, the National Center for Education Statistics shall consult with individuals knowledgeable in the field of education finance.

"(5) Each State shall make its first report to the Secretary under this subsection not later than two years after the date that the Secretary initially allots funds under section 8111.

"(c) TECHNICAL ASSISTANCE.—The Secretary shall provide technical assistance, either directly by grant or by contract, to the States to assist them in complying with the requirements of this section.

"(d) DATA REVIEW.—The National Center for Education Statistics shall review the data from reports compiled under this section to determine adherence to the definitions required in subsection (b) before it is submitted for policy analysis by the National Academy of Sciences under subsection (c) of section 8114. The National Center for Education Statistics shall forward to the Secretary and the National Academy of Sciences any discrepancies it determines between the data and the definitions and any corrections necessary to achieve consistency in the data, particularly as it relates to differences in data of the various States.

"SEC. 8114. EVALUATION AND DISSEMINATION.

"(a) EVALUATION.—The Secretary shall evaluate a representative sample of such State and local reform efforts over the course of the 10-year authorization in order to assess the effectiveness of such plans and activities in improving the educational performance of all children. Such evaluations shall specifically examine the effects of such activities on disadvantaged students. The Secretary may reserve up to ¾ of one percent of the appropriations for this part to carry out this section provided that ½ of one percent of such appropriation shall be reserved for technical assistance under section 8113(c) and for subsection (c) of this section.

"(b) DISSEMINATION.—The Secretary shall, annually and upon request, disseminate to the States information on approaches and materials developed under this part or through related efforts.

"(c) CONTRACT FOR STATISTICAL, LEGAL, AND POLICY ANALYSIS.—(1) The Secretary shall provide, through a contract with the National Academy of Sciences, for the preparation of a statistical, legal, and policy analysis of school finance and related data reported by the States under section 8113(b). Such analysis shall—

"(A) address disparities in educational expenditures and the reasons for such disparities among local educational agencies in each State and among States across the Nation; and

"(B) describe the degree to which the data reported by States under section 8113 was useful in its preparation.

"(2) In conducting such analysis, the National Academy of Sciences shall use statistical methods generally accepted by school finance specialists, and shall develop model State school finance programs based on generally accepted concepts of equalized school finance programs. Such models shall take into consideration a variety of factors, including—

"(A) State and local variations in student demographics and needs, and the costs of meeting such needs;

"(B) adequacy of resources;

"(C) ability and willingness of States and local educational agencies to raise additional revenues; and

"(D) costs of providing educational services.

"(3) Not later than three years following the date that the Secretary makes the first allotment of funds to States under section 8111, the National Academy of Sciences shall provide a report containing the information required by this subsection to the Chairpersons of the Committee on Education and Labor of the House of Representatives and the Committee on Labor and Human Resources of the Senate and to the Secretary. The Secretary shall expeditiously make such report available to States and, upon request, to the public.

"(4) The Secretary, upon request, shall provide, either directly or by contract, technical assistance to States which endeavor to implement a model school finance program developed by the National Academy of Sciences under this subsection.

"SEC. 8115. REPORT TO CONGRESS.

"The Secretary shall submit annually to the chairpersons of the Committee on Education and Labor of the House of Representatives and the Committee on Labor and Human Resources of the Senate a report that contains—

"(1) a description of the progress that States receiving funds under this part have made in developing and implementing their plans;

"(2) information from State and local reports regarding requirements in Federal law or regulation which have been identified by States and local educational agencies as impeding the system-wide reform of schools under this part; and

"(3) a list by State of average per pupil expenditures reflecting the most recent data reported under section 8113(b) and reviewed under section 8113(d).

"SEC. 8116. GENERAL PROVISIONS.

"Nothing in this part shall—

"(1) supersede State law;

"(2) be construed to authorize any department, agency, officer, or employee of the Federal Government to—

"(A) exercise any control over the curriculum, program of instruction, administration or personnel of any educational institution or school system; or

"(B) prescribe the use of particular standards, assessments, or instructional materials;

"(3) be construed to limit the rights or responsibilities of any person under any Federal law; or

"(4) be construed to prohibit a local educational agency from receiving contributions from private organizations or individuals for the purpose of supporting the development or implementation of its local reform plan.

"SEC. 8117. DEFINITIONS.

"For purposes of this part:

"(1) The term 'assessment system' means a system for measuring the abilities and academic achievement of students that is based upon a set of curricular frameworks and expected outcomes.

"(2) The term 'curricular framework' means a description, in a particular subject area, of the knowledge and skills children should acquire at each grade level.

"(3) The term 'Pacific outlying area' means American Samoa, Guam, the Commonwealth of the Northern Mariana Islands, and the Republic of Palau (until such time as the Compact of Free Association is ratified).

"PART C—FLEXIBILITY DEMONSTRATION PROGRAM

"SEC. 8201. SHORT TITLE.

"This part may be cited as the 'Flexibility for Educational Effectiveness Act of 1992'.

"SEC. 8202. FINDINGS AND PURPOSES.

"(a) FINDINGS.—The Congress finds that—

"(1) schools face increasingly diverse populations of disadvantaged students due to the influx of many immigrant children, the growth in poverty among children, and changes in the family structure;

"(2) schools are asked not only to educate such increasingly diverse student populations, but to meet disadvantaged students' needs for social, health, and nutritional services;

"(3) Federal and State programs are available to assist in educating and otherwise helping such students, but were designed originally when it was easier to meet the needs separately; and

"(4) a demonstration program that waives specific Federal statutes and regulations is necessary to determine whether education and other services can be provided in a more coordinated manner so that teachers, principals, and other school personnel can develop more flexible approaches to improving the education, social, health, mental health, and nutrition levels of disadvantaged children.

"(b) PURPOSES.—It is the purpose of this part to demonstrate the effectiveness in several States and schools, of granting waivers of Federal and State laws and regulations so that services can be more effectively provided to disadvantaged children.

"SEC. 8203. ESTABLISHMENT OF FEDERAL COMMITTEE.

"(a) IN GENERAL.—There is established a Committee on Services to Children (referred to in this part as the 'Committee') composed of the Secretaries of Education, Agriculture, Labor, and Health and Human Services. Such Committee shall coordinate certain activities of the Departments of Education, Agriculture, Labor, and Health and Human Services to facilitate demonstration projects that waive certain requirements of Federal laws and regulations administered by such departments.

"(b) NOTIFICATION.—Not later than 60 days after the establishment of the Committee under this section, such Committee shall publish in the Federal Register a notice and description of programs providing health, mental health, social services, or substance abuse prevention and treatment for which waivers of requirements are available under other Federal laws for the purpose of encouraging the coordination of such programs with programs included in this part.

"(c) DUTIES.—The Committee shall review applications from States for demonstration projects and approve applications of not more than 15 States involving not more than 20 schools in each State.

"(d) LIMITATION.—The Committee shall not exercise authority over the development or specific provisions of an application submitted by a State.

"SEC. 8204. PROGRAM AUTHORIZED.

"(a) STATES.—The Committee is authorized to waive certain requirements in not more than 15 States involving not more than 20 schools in each State for demonstration purposes to find more flexible ways to provide education and

other services to disadvantaged students. The demonstration projects may include the simplification, coordination, and combination of some of the requirements in the following four categories—

"(1) related Federal and State preschool and early childhood programs for disadvantaged children;

"(2) related Federal and State programs for disadvantaged students in elementary and secondary schools;

"(3) Federal and State educational programs for disadvantaged children and social, health, and nutrition programs targeted at such children; and

"(4) the administration of Federal and State school lunch and school breakfast programs.

"(b) TERRITORIES.—(1) Notwithstanding the definition of State in section 1471, the Secretary is authorized to consider an application from each of the territories of the Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands and to waive certain requirements in not more than four schools for each of such territories.

"(2) The requirements of subsection (a) regarding the number of States and schools that may be approved for waivers shall not include the territories listed in paragraph (1).

"SEC. 8205. ELIGIBILITY.

"(a) STATE ELIGIBILITY.—To be eligible to participate in a demonstration project under this part, a State educational agency shall have, or make a concerted attempt to develop, coordinated service agreements with other agencies of the State that administer social services, health, mental health, and substance abuse prevention and treatment programs. Such agreements shall include descriptions of the manner in which such services for disadvantaged students are coordinated at the State level.

"(b) LOCAL ELIGIBILITY.—To be eligible to participate in a demonstration project under this part, a local educational agency shall—

"(1) develop the application with the involvement of a local reform committee established under section 8108 of part B or under State law; and

"(2) have, or make a concerted attempt to develop, coordinated service agreements with other local agencies and organizations to better coordinate the provision of education, social services, health, mental health, and substance abuse prevention and treatment programs to disadvantaged students. Such services shall be available at a location convenient for such students and their families.

"SEC. 8206. APPLICATIONS.

"(a) GENERAL LOCAL REQUIREMENTS.—A local educational agency that desires to participate in a demonstration project that waives certain State and Federal requirements to improve the delivery of services to disadvantaged children shall submit an application that includes not more than 4 schools in the jurisdiction of such agency to the State educational agency.

"(1) LOCAL REQUEST FOR WAIVERS.—A local educational agency that desires to request waivers of statutory or regulatory requirements to better serve disadvantaged students shall submit an application that—

"(A) identifies each school that desires waivers of Federal and State requirements and describes how such requirements impede improved educational outcomes;

"(B) specifically identifies each Federal and State statutory requirement to be waived;

"(C) describes how program funds shall be combined with chapter 1 funds to provide more effective services in the regular classroom for disadvantaged students;

"(D) describes how the combining of funds shall—

"(i) allow the school to provide services to disadvantaged students in a more comprehensive, less fragmented approach;

"(ii) allow the school to better meet the educational needs of disadvantaged students; and

"(iii) allow the school to allocate resources more effectively;

"(E) describes the specific educational improvement goals for each school, including—

"(i) goals to substantially improve the performance of disadvantaged students on indicators of student progress that are tied to State and national education goals and which reflect public input;

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

"(iii) an explanation of how the local educational agency shall evaluate the progress of each school in meeting its educational improvement goals in order to measure—

"(I) physical, psychological, and educational readiness of disadvantaged children to learn;

"(II) skill levels of students eligible for chapter 1 funds in reading, mathematics, analytical reasoning, and higher order thinking;

"(III) the dropout, retention, and graduation rates;

"(IV) teacher and student absenteeism; or

"(V) other factors associated with student and school success;

"(F) describes the population of disadvantaged students at each school, the academic and other needs of such students, and how the needs of such students shall be addressed by the demonstration projects;

"(G) describes how school administrators, teachers, staff, and parents shall be involved in the planning, development, and implementation of the goals for each participating school; and

"(H) assures that the local educational agency shall report annually to the State educational agency on the progress of the school in meeting the goals described in the application.

"(2) LOCAL REQUEST FOR SOCIAL, HEALTH, AND NUTRITION PROGRAM WAIVERS.—A local educational agency that desires to receive waivers of statutory or regulatory requirements to improve the social, health, and nutritional services to disadvantaged students shall submit an application to the State educational agency that—

"(A) includes a description of the impediments to providing effective social, health, and nutritional services to disadvantaged children;

"(B) identifies the Federal and State statutory or regulatory requirements to be waived;

"(C) describes the service goals to be achieved;

"(D) assures that the local educational agency shall report annually to the State educational agency on the progress of the school in meeting the goals described in the application.

"(3) LOCAL REQUEST OF SCHOOL AND CHILD NUTRITION PROGRAM WAIVERS.—A local educational agency that desires to receive waivers of statutory or regulatory requirements relating to the operation of school lunch and school breakfast programs shall submit an application to the State educational agency that—

"(A) includes a description of the impediments to the efficient operation and administration of the school lunch or school breakfast program;

"(B) identifies the Federal statutory or regulatory requirements to be waived;

"(C) describes the management goals to be achieved, such as fewer hours spent on or fewer personnel dedicated to the administration of such programs; and

"(D) assures that the local educational agency shall report annually to the State educational agency on the progress of school in meeting the goals described in the application.

"(b) GENERAL STATE REQUIREMENTS.—A State educational agency that desires to request waivers of statutory requirements or regulations shall submit an application to the Committee that includes the following:

"(1) SCHOOL SELECTION.—The names of the not more than 20 schools in such State selected to participate in a demonstration project.

"(2) REQUIREMENT WAIVERS.—For each such school, the identification of the statutory or regulatory requirements that are requested to be waived and the goals that the school intends to achieve.

"(3) STATE ACTION.—A description of the action that the State has undertaken to remove State statutory or regulatory barriers identified in the applications of the local educational agencies.

"(4) PROGRAM COMBINATION.—A description of the extent to which the State has combined State programs for educating disadvantaged students and State social health, mental health, and substance abuse programs with similar Federal programs, including the administration of such programs.

"(5) MONITORING PROCESS.—An assurance that the State educational agency shall monitor quarterly the progress of the schools in meeting the goals outlined in the application and that such agency shall report annually on such progress to the Committee.

"(6) APPROPRIATE APPROVAL.—If a local educational agency has requested a waiver of a Federal or State statutory or regulatory requirement that is not within the jurisdiction of the State educational agency, the written approval of the appropriate State official responsible for such requirement.

"(c) PRIORITIES.—

"(1) LOCAL PRIORITY.—The State educational agency shall give priority consideration to the selection of schools with large numbers or percentages of students eligible to receive a free or reduced price meal and schools that are—

"(A) participating in school-wide projects under chapter 1;

"(B) recipients of multiple Federal educational programs serving disadvantaged students; and

"(C) combining Federal and State social, health, mental health, and substance abuse services with Federal and State education programs affected by this part;

"(2) STATE PRIORITY.—The Committee shall give priority consideration to an application of a State that—

"(A) demonstrates that actions have been taken to waive State statutory or regulatory requirements in programs similar to the Federal programs for which the waivers are sought; and

"(B) demonstrates (and provides evidence of authority) that the State has or intends to coordinate and combine the administration of similar Federal and State education programs affected by this part and also to coordinate such programs with social, health, mental health, and substance abuse programs.

"SEC. 8207. FEDERAL WAIVERS OF GENERAL REQUIREMENTS.

"A State educational agency may request waivers of Federal statutory or regulatory requirements relating to the uses of funds for programs serving disadvantaged students to allow funds to be combined to better serve disadvantaged students in the regular classroom.

"(1) PRESCHOOL PROGRAMS.—In the case of preschool programs serving disadvantaged students, such programs shall include chapter 1 and may include—

"(A) Head Start (only for requirements related to age, family income, length of day, and restrictions on reimbursement);

"(B) Even Start;

"(C) the Child Care Quality Improvement Act; and

"(D) the Comprehensive Child Development Centers Act of 1988.

"(2) ELEMENTARY SCHOOL.—In the case of programs serving disadvantaged students at the elementary school level, such programs shall include chapter 1 and may include—

"(A) chapter 2 of this Act;

"(B) the Jacob K. Javits Gifted and Talented Students Education Act of 1988;

"(C) the Drug Free Schools and Communities Act of 1986;

"(D) the Head Start Transition Project Act;

"(E) the Follow Through Act; and

"(F) the Emergency Immigrant Education Act of 1984.

"(3) SECONDARY SCHOOL.—In the case of programs serving disadvantaged students at the secondary school level, such programs shall include chapter 1 and may include—

"(A) the Carl D. Perkins Vocational and Applied Technology Act;

"(B) the Job Training Partnership Act;

"(C) chapter 2 of this Act;

"(D) the School Dropout Demonstration Assistance Act of 1988;

"(E) the Drug Free Schools and Communities Act of 1986; and

"(F) the Emergency Immigrant Education Act of 1984.

"SEC. 8208. FEDERAL WAIVERS OF REQUIREMENTS FOR SOCIAL, HEALTH, AND NUTRITION PROGRAMS.

"A State educational agency may request waivers of Federal statutory or regulatory requirements relating to the operation of programs designed to improve the social, health, and nutritional condition of disadvantaged children. Requests may include waivers for—

"(1) the Nutrition Education and Training Program under the Child Nutrition Act;

"(2) Programs for Improvement of Comprehensive School Health Education under the Secretary's Fund for Innovation in section 4605 of title IV of this Act;

"(3) Alcohol and Drug Abuse Education Act; and

"(4) the Drug Free Schools and Communities Act.

"SEC. 8209. FEDERAL WAIVERS OF REQUIREMENTS FOR NATIONAL SCHOOL LUNCH AND CHILD NUTRITION PROGRAMS.

"The State educational agency may request waivers of Federal statutory or regulatory requirements relating to the operation of the school lunch and school breakfast programs authorized under the National School Lunch and Child Nutrition Acts in order to promote more efficient operation of such programs.

"SEC. 8210. RESTRICTIONS ON WAIVERS.

"(a) IN GENERAL.—A local educational agency may request waivers only for those programs in which such agency participates and nothing in this part may be construed:

"(1) CIVIL RIGHTS AND DISCRIMINATION.—To authorize any changes in, substitutions for, or lessening of, the mandates and protections of Federal laws and regulations regarding civil rights (under title VI of the Civil Rights Act of 1964), discrimination (under title IX of the Education Amendments of 1972, or section 504 of the Rehabilitation Act of 1973, or the Age Discrimination Act of 1975), and safety, and the procedural safeguards contained in such provisions.

"(2) USAGE OF FUNDS.—To affect regulations and prohibitions concerning the diversion of Federal funds for private use.

"(3) GENERAL REQUIREMENTS.—To absolve any State, local educational agency or school from—

"(A) maintenance of effort or comparability of services requirements under any program;

"(B) requirements that Federal funds supplement, not supplant non-Federal funds;

"(C) requirements to provide for the equitable participation of private school students;

"(D) requirements under sections 438 and 439 of the General Education Provisions Act; or

"(E) requirements relating to parental participation.

"(4) FUND DISTRIBUTION.—To alter the distribution of funds to schools within the local educational agency, or to change the way funds are utilized within schools for programs not included in the waiver.

"(5) CONSTRUCTION, RENOVATION, AND REPAIR.—To permit funds made available for services and activities to be used for the construction, renovation, or repair of facilities.

"(b) RESTRICTIONS OF SCHOOL LUNCH AND CHILD NUTRITION PROGRAMS.—Nothing in this part shall be construed:

"(1) DISCLOSURE OF INFORMATION.—To lessen the mandates regarding the prohibition on the disclosure of information regarding students receiving free or reduced price meals.

"(2) PRICE LIMITATION.—To allow eligible schools to charge more than the statutory price limit for a reduced price meal.

"(3) MEAL COSTS.—To lessen the mandates regarding the requirements for serving free or reduced price meals to eligible students.

"(4) REIMBURSEMENT.—To allow schools to receive a reimbursement at an amount greater than the number or proportion of students eligible for free, reduced price, or paid meals.

"(5) PROHIBITION.—To lessen the requirements regarding the prohibition on operating a profit-producing program.

"(6) SALE.—To lessen the requirements regarding the sale of competitive foods.

"(7) NUTRITION.—To lessen the mandates regarding the nutritional content of the meals served.

"(c) SPECIAL RULE.—Any reporting requirements required by programs affected by sections 8207, 8208, and 8209 shall be waived and considered satisfied by the reporting requirements in this part.

"SEC. 8211. TERMINATION OF WAIVER AUTHORITY.

"(a) EARLY TERMINATION.—A waiver granted to a State or school shall be terminated when the following occurs:

"(1) PROGRESS.—The school has not demonstrated adequate progress toward meeting the goals outlined in the application of the local educational agency.

"(2) VIOLATION.—When a State or school has been found in violation of any restriction on the waiver authority.

"(b) FINAL TERMINATION.—The authority of the Committee to grant waivers shall expire on September 30, 1997.

"(c) DECLINE PARTICIPATION.—A school, at any time, may decline to participate in a project under this part.

SEC. 8212. REPORTING REQUIREMENTS.

"(a) STATE REQUIREMENT.—A State educational agency that is selected for a demonstration project under this part shall report annually to the Committee on the progress of each participating school in meeting the goals articulated in the application of the local educational agency and shall include the following:

"(1) INTERAGENCY AGREEMENTS.—Identification of the interagency mechanism established to coordinate the delivery of services at the State and local level.

"(2) ACHIEVEMENT LEVELS.—Evaluation of the impact of coordinated services on the achievement levels of students eligible for chapter 1 funds including—

"(A) reading and math skills;

"(B) analytical reasoning skills;

"(C) dropout rates;

"(D) retention rates;

"(E) graduation rates;

"(F) student absenteeism;

"(G) teacher absenteeism; and

"(H) other indicators considered by the local educational agency to be appropriate.

"(3) SERVICE REVIEW.—Identification of the specific steps taken—

"(A) to expand or restrict eligibility for services or programs;

"(B) to establish new services;

"(C) to expand existing services;

"(D) to increase hours of service;

"(E) to integrate services from other systems (such as mental health, nutrition, social services, and substance abuse prevention and treatment);

"(F) to involve new staff in the delivery of services; and

"(G) to enhance parental involvement.

"(b) COMMITTEE REQUIREMENT.—The Committee shall report annually to the Committee on Education and Labor in the House of Representatives and the Committee on Labor and Human Resources of the Senate, and the Committee on Agriculture, Nutrition, and Forestry of the Senate, on the progress in each of the schools in meeting the goals in the application of the local educational agency.

"SEC. 8213. EVALUATION.

"(a) NATIONAL ACADEMY OF EDUCATION.—The Secretary of Education shall contract with the National Academy of Education to conduct an evaluation of the demonstration projects under this part to determine the following:

"(1) STATE REPORTING REQUIREMENTS.—The accuracy of the information required under section 8212.

"(2) ACHIEVEMENT AND EFFICIENCY.—The effectiveness of raising educational achievement levels of disadvantaged students and improving the general efficiency of program operations at each school.

"(3) COORDINATED SERVICE AGREEMENTS.—The effectiveness of the coordinated service agreements at the State and local levels in the delivery of comprehensive services to disadvantaged children.

"(b) SUBMISSION DEADLINE.—Such evaluation shall be submitted to the Committee on Education and Labor of the House of Representatives, the Committee on Labor and Human Resources and the Committee on Agriculture, Nutrition, and Forestry of the Senate not later than January 1, 1999.

"SEC. 8214. DEFINITIONS.

"For purposes of this part:

"(1) The term 'chapter 1' means chapter 1 of title I of this Act.

"(2) The terms 'disadvantaged children' and 'disadvantaged students' mean children, ages 3 to 17 years, who are eligible for services under chapter 1 of title I of the Elementary and Secondary Education Act of 1965, the Head Start Act, the National School Lunch Act, the Follow Through Act, the Bilingual Education Act, the School Dropout Demonstration Act, or the Emergency Immigrant Education Act.

"(3) The term 'secondary school' means junior high schools, middle schools, and high schools.

"SEC. 8215. AUTHORIZATION OF APPROPRIATIONS.

"For the purposes of section 8213, there are authorized to be appropriated $1,000,000 for fiscal year 1997, which shall remain available until expended.

"TITLE IX—NATIONAL BOARD ON WORKFORCE SKILLS

"SEC. 9001. PURPOSE.

"The purpose of this title is—

"(1) to conduct research to identify and to determine the validity of generic workplace readiness skills which all students should have attained upon completion of high school in order to be effective participants in the workforce; and

"(2) to make recommendations regarding how the attainment of such generic workplace readiness skills can be incorporated into the development of national content standards and national school delivery standards.

"SEC. 9002. RESEARCH.

"(a) NATIONAL ACADEMY OF SCIENCES.—The Secretary of Education, through grant or con-

tract with the National Academy of Sciences (referred to in this title as the Academy), shall—

"(1) in consultation with employers, workers, representatives of labor, educators, and others as appropriate, identify generic workplace readiness skills that all students should have upon completion of high school;

"(2) conduct research on such skills, including evaluating existing research and practices to determine the relationship between possession of the skills and competent job performance;

"(3) make recommendations for integrating generic workforce readiness skills into school-based learning; and

"(4) propose methods to update generic workforce skills as the requirements of the economy change.

"(b) EXPERTS.—The Academy shall utilize the expertise of representatives from business and industry, organized labor (including organizations with national training programs), education, local government, and others with expertise regarding the identification and teaching of generic workplace readiness skills.

"SEC. 9003. RECOMMENDATIONS.

"The Academy shall work with the National Education Goals Panel and the groups and organizations authorized to develop national content standards and national schools delivery standards pursuant to sections 8011 and 8012, respectively, to include skills identified under this part and the National Education Goals Panel and such groups and organizations shall utilize the recommendations of the Academy.

"SEC. 9004. TIME AND CONDITIONS.

"The Secretary shall, not later than 90 days after the receipt of funds appropriated under section 9005, enter into an appropriate arrangement with the Academy to carry out the responsibilities outlined under this title.

"SEC. 9005. AUTHORIZATION OF APPROPRIATIONS.

"There are authorized to be appropriated $2,000,000 for fiscal year 1993 to carry out this title. Such appropriation shall be available until expended.".

SEC. 102. EISENHOWER NATIONAL PROGRAMS.

Section 2012 of the Elementary and Secondary Education Act is amended by adding at the end the following:

"(g) MODEL ASSESSMENTS FOR MATH STANDARDS.—The Secretary may develop, in consultation with the panel and committee established under title VIII of this Act, model assessments tied to the math standards.".

TITLE II—GENERAL EDUCATION PROVISIONS ACT AMENDMENTS

SEC. 201. NATIONAL ASSESSMENT PURPOSE.

(a) ASSESSMENT PURPOSE.—Section 406(i)(1) of the General Education Provisions Act is amended by striking the third sentence and inserting the following:

"The purpose of the National Assessment is to measure the Nation's progress in meeting the national education goals through the assessment of the performance of children and adults in the basic skills of reading, mathematics, science, writing, history, geography, and other areas selected by the Board.".

(b) NATIONAL ASSESSMENT.—Section 406(i)(6)(A) of the General Education Provisions Act is amended—

(1) by redesignating clauses "(ii)" through "(viii)" as "(iii)" through "(ix)", respectively; and

(2) by inserting after clause (i) the following:

"(ii) ensuring that the National Assessment is aligned with national content standards established under section 8011 of this Act.".

SEC. 202. FUNCTIONS OF NATIONAL ASSESSMENT.

(a) IN GENERAL.—Section 406 of the General Education Provisions Act (20 U.S.C. 1221e–1) is amended—

(1) in paragraph (1) of subsection (f), by striking "and 1993" and inserting "1993, and 1994";

(2) in subparagraph (C) of subsection (i)(2)—

(A) by redesignating clauses (iii), (iv), and (v) as clauses (iv), (v), and (vi), respectively;

(B) by inserting after clause (ii) the following:

"(iii) The National Assessment shall—

"(I) conduct, in 1994, a trial mathematics assessment for the 4th and 8th grades and a trial reading assessment for the 4th grade, in States that wish to participate, for the purpose of determining whether such assessments yield valid and reliable State representative data;

"(II) develop a trial mathematics assessment for the 12th grade, a trial reading assessment for the 8th and 12th grades, and a trial science assessment for the 4th, 8th, and 12th grades, to be administered in 1994 in States that wish to participate, for the purpose of determining whether such assessments yield valid and reliable State representative data; and

"(III) include in each such sample assessment referred to in subclauses (I) and (II) students in public and private schools in a manner that ensures comparability with the national sample."; and

(C) in clause (vi) (as redesignated by subparagraph (A) of this paragraph)—

(i) in the first sentence, by striking "and the fairness and accuracy of the data they produce" and inserting ", the fairness and accuracy of the data they produce, and important issues affecting the quality and integrity of the National Assessment"; and

(ii) by striking "paragraph (C)(i) and (ii)" and inserting "clauses (i), (ii), and (iii)".

(b) CONFORMING AMENDMENT.—Subparagraph (D) of section 405(f)(1) of the General Education Provisions Act (20 U.S.C. 1221e(f)(1)) is amended by striking "1993" and inserting "1994".

(c) ADDITIONAL REPORT.—

(1) IN GENERAL.—The Secretary shall provide for the organization that conducts the independent evaluation required by section 406(i)(2)(C)(vi) of the General Education Provisions Act to study and report to the Congress on—

(A) the process whereby achievement goals are set pursuant to section 406(i)(6) of such Act; and

(B) the ability of the National Assessment of Educational Progress to maintain valid data with respect to trends in student performance.

(2) TIME FOR SUBMISSION OF REPORT.—The report required by paragraph (1) shall be submitted as soon as practicable, but in any event not later than 120 days after the date of the enactment of this Act.

SEC. 203. RESPONSIBILITY OF STATES TO FURNISH INFORMATION CONCERNING USES OF FEDERAL FUNDS.

Section 406A of the General Education Provisions Act (20 U.S.C. 1232f) is amended to read as follows:

"RESPONSIBILITY OF STATES TO FURNISH INFORMATION

"SEC. 406A. (a) Each State educational agency shall submit to the Secretary a report on or before March 15 of every second year. Each such report shall include—

"(1) information with respect to the uses of Federal funds in such State in the 2 preceding fiscal years under any applicable program under the jurisdiction of the State educational agency; and

"(2) information with respect to the uses of Federal funds in such State in the 2 preceding fiscal years under any Federal program administered by the State that provided grants or contracts to a local educational agency in the State.

"(b) Each report submitted as required by subsection (a) shall—

"(1) list, with respect to each program for which information is provided, all grants made to and contracts entered into with local educational agencies and other public and private agencies and institutions within the State during each fiscal year concerned;

"(2) analyze the information included in the report by local educational agency and by program;

"(3) include the total amount of funds available to the State under each such program for each fiscal year concerned and specify which appropriation Act or Acts made such funds available;

"(4) separately account for any funds carried over from a preceding fiscal year by any State or local educational agency; and

"(5) be made readily available by the State to local educational agencies and institutions within the State and to the public.

"(c) If the Secretary does not receive a report by the date required under subsection (a), or receives an incomplete report, the Secretary, not later than 30 days after such report is required to be submitted, shall take all reasonable measures to obtain the delinquent or incomplete information from the State educational agency.

"(d) When the Secretary receives a report required under subsection (a), the Secretary shall provide such information to the National Center for Education Statistics, and shall make such information available to any individual who requests it and as part of a telecommunications network that is readily accessible to every member of Congress and other interested parties.

"(e) On or before August 15th of each year in which reports are submitted under subsection (a), the Secretary shall submit a report to the Committee on Education and Labor of the House of Representatives and the Committee on Labor and Human Resources of the Senate. Such report shall include—

"(1) an analysis of the content and data quality of such reports;

"(2) a compilation of statistical data derived from such reports; and

"(3) information obtained by the Secretary with respect to—

"(A) direct grants made to local educational agencies by the Federal Government; and

"(B) contracts entered into between such agencies and the Federal Government.".

TITLE III—ELEMENTARY AND SECONDARY EDUCATION ACT AMENDMENT

SEC. 301. SCHOOLWIDE PROJECTS.

(a) IN GENERAL.—Section 1015(b)(6) of the Elementary and Secondary Education Act of 1965 is amended—

(1) in subparagraph (A)—

(A) by striking "(A)"; and

(B) by striking the semicolon and "and" at the end and inserting a period; and

(2) by striking subparagraph (B).

(b) APPLICATION.—The amendment made by subsection (a) shall apply to grants made on or after October 1, 1992.

TITLE IV—VOCATIONAL EDUCATION ASSESSMENT

SEC. 401. ASSESSMENT OF EDUCATIONAL PROGRESS ACTIVITIES.

Section 421(h) of the Carl D. Perkins Vocational and Applied Technology Education Act is amended—

(1) by inserting after "(1)" and "(h)"; and

(2) by inserting at the end the following:

"(2)(A) Notwithstanding any provision of section 406 of the General Education Provisions Act, the Commissioner of Education Statistics may authorize a State educational agency or a consortium of such agencies to use items and data from the National Assessment of Educational Progress for the purpose of evaluating a course of study related to vocational education, if the Commissioner has determined, in writing, that such use will not—

"(i) result in the identification of characteristics or performance of individual students or schools;

"(ii) result in the ranking or comparing of schools or local educational agencies;

"(iii) be used to evaluate the performance of teachers, principals, or other local educators for the purpose of dispensing rewards or punishments; or

"(iv) corrupt or harm the use and value of data collected for the National Assessment of Educational Progress.

"(B) Not later than 60 days after making an authorization under subsection (a), the Commissioner shall submit to the chairperson of the Committee on Education and Labor of the House of Representatives and to the chairperson of the Committee on Labor and Human Resources of the Senate, a report which contains—

"(i) a copy of the request for such authorization;

"(ii) a copy of the written determination under subsection (a); and

"(iii) a description of the details and duration of such authorization.

"(C) The Commissioner may not grant more than one such authorization in any fiscal year and shall ensure that the authorized use of items or data from the National Assessment is evaluated for technical merit and for its affect on the National Assessment. The results of such evaluations shall be promptly reported to the committees specified in subparagraph (B).".

"SEC. 402. AMENDMENTS TO THE CARL D. PERKINS VOCATIONAL AND APPLIED TECHNOLOGY EDUCATION ACT.

Section 422 of the Carl D. Perkins Vocational and Applied Technology Education Act (20 U.S.C. 2422) is amended—

(1) in paragraph (2) of subsection (a), by inserting ", including postsecondary employment and training programs," after "training programs"; and

(2) in subsection (b)—

(A) by redesignating subparagraphs (A) and (B) as paragraphs (1) and (2), respectively;

(B) in the matter preceding paragraph (1) (as redesignated in subparagraph (A)), by inserting "the State board or agency governing higher education" after "coordinating council,"; and

(C) in paragraph (1) (as redesignated in subparagraph (A))—

(i) by striking "Act and of" and inserting "Act, of"; and

(ii) by inserting "and of the State board or agency governing higher education" after "Job Training Partnership Act"; and

(3) by redesignating subsection (d) as subsection (e); and

(4) by inserting after subsection (c) the following new subsection:

"(d) DATA COLLECTION SYSTEM.—In the development and design of a system to provide data on graduation or completion rates, job placement rates from occupationally specific programs, and licensing rates, each State board for higher education shall develop a data collection system whose results can be integrated into the occupational information system developed under this section.".

The CHAIRMAN. No amendment to the substitute, as modified, is in order except those amendments printed in House Report 102–838 and the amendments en bloc described in House Resolution 551. The amendments printed in House Report 102–838 shall be considered in the order and manner specified in the report, shall be considered as read, shall not be subject to amendment, and shall not be subject to a demand for a division of the question. Debate on each amendment shall be equally divided and controlled by the proponent and an opponent of the amendment.

It shall be in order for the chairman of the Committee on Education and Labor, or his designee, to offer amendments en bloc, consisting of amendments and modifications in the text of any amendment which are germane thereto, printed in House Report 102–838. Said amendments en bloc shall be considered as read, except that modifications shall be reported; shall not be subject to amendment or to a demand for a division of the question, and are debatable for 40 minutes, equally divided and controlled by the chairman and ranking minority member of the Committee on Education and Labor.

The original proponents of the amendments offered en bloc shall have permission to insert statements in the CONGRESSIONAL RECORD immediately before the disposition of the amendments en bloc.

AMENDMENTS EN BLOC OFFERED BY MR. KILDEE

Mr. KILDEE. Mr. Chairman, pursuant to the rule, and as the designee of the gentleman from Michigan [Mr. FORD], I offer amendments en bloc.

The CHAIRMAN. The Clerk will designate the amendments en bloc.

The text of the amendments en bloc are as follows:

Amendments en bloc offered by Mr. KILDEE consisting of the amendments numbered 1 through 6 in House Report 102-838.

1. Kildee amendment:

Page 2, before line 1, insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Neighborhood Schools Improvement Act".

Page 3, line 9, insert "voluntary" before "national".

Page 3, line 14, insert "voluntary national" before "school delivery".

Page 8, line 2, insert "voluntary" before "national".

Page 8, beginning on line 24, strike "measurement tools to be developed as necessary" and insert "indicators".

Page 15, strike lines 9 through 21, and insert the following:

"(b) APPOINTMENT AND PAY OF EMPLOYEES.—

"(1) EMPLOYEE ALLOCATION.—(A) The Chairperson of the Panel may appoint not more than four employees to serve as staff to the Panel without regard to the provisions of the title 5, United States Code, governing appointments in the competitive service.

"(B) The employees appointed under paragraph (1) may be paid without regard to the provisions of chapter 51 and subchapter III of chapter 53 of that title relating to classification and General Schedule pay rates, but shall not be paid a rate that exceeds the maximum rate of basic pay payable for GS-15 of the General Schedule.

"(2) ADDITIONAL EMPLOYEES.—The Chairperson of the Panel may appoint additional employees to serve as staff to the Panel consistent with the provisions of title 5, United States Code.

Page 16, line 12, insert "voluntary" before "national".

Page 16, line 14, insert "voluntary" before "national".

Page 16, line 16, insert "VOLUNTARY" before "NATIONAL".

Page 18, line 17, insert "VOLUNTARY NATIONAL " before "SCHOOL".

Page 25, line 7, strike "1992" and insert "1993".

Page 25, line 12, strike "1992 through 1996" and insert "1993 through 1994".

Page 25, line 16, strike "1992" and insert "1993".

Page 25, line 17, strike "1993" and insert "1994".

Page 25, line 21, strike "1992 and 1993" and insert "1993 and 1994".

Page 32, line 8, strike "and".

Page 32, line 9, strike "(6)" and insert "(7)".

Page 32, after line 8, insert the following:

"(6) an individual representing the State board of education; and".

Page 32, line 16, strike "(F) State board of education.".

Page 32, line 17, strike "(G)" and insert "(F)".

Page 34, beginning on line 3, strike "consistent with requirements of Federal law".

Page 34, beginning on line 9, strike "consistent with requirements of Federal law".

Page 41, line 9, insert "(or a designee)" after "agency".

Page 52, line 12, strike "and".

Page 52, line 16, strike the period and insert a semicolon.

Page 52, after line 16, insert the following:

"(16) demonstrating and evaluating the effectiveness of improving teacher and student performance by reducing the numbers of students in classrooms; and

"(17) improving the academic performance and reducing the dropout rate of at-risk students through the use of mentors."

Page 68, beginning on line 7, strike "at each grade level".

Page 91, beginning on line 20, strike "(b) EXPERTS.—" and all that follows through "the expertise" and insert the following:

"(b) NATIONAL BOARD.—The Academy shall establish a National Board on Workforce Skills composed".

Page 92, line 23, strike "Secretary may develop," and insert "Secretary, with funds appropriated to carry out this section and"

Page 92, line 25, insert before "model" the following:

"is authorized to make grants to State educational agencies, local educational agencies, institutions of higher education, organizations with expertise in assessments, or a combination of such agencies or organizations, to support the development of".

Page 93, strike lines 3 through 20.

Page 93, line 21, strike "202" and insert "201".

Page 96, line 5, strike "203" and insert "202".

Page 99, strike lines 1 through 3 and insert the following:

"TITLE III—MISCELLANEOUS PROVISIONS".

Page 99, strike lines 5 through 14 and insert the following:

(a) IN GENERAL.—Section 1015(b)(6) of Public Law 89-10, as amended (20 U.S.C. 2725(b)(6)), is amended—

(1) in subparagraph (A) by striking at the end "and"; and

(2) in subparagraph (B) by striking such subparagraph and inserting the following:

"(B) the average per pupil expenditure in schools described in subsection (a) (excluding amounts expended under a State compensatory education program) for the fiscal year in which the plan is to be carried out will not be less than such expenditure in the previous fiscal year in such schools, except that—

"(i) the cost of services for programs described in section 1018(d)(2)(A) shall be included for each fiscal year as appropriate only in proportion to the number of children in the building served in such programs in the year for which this determination is made; and

"(ii) if the average per pupil expenditure of the local educational agency is less than such expenditure in the previous fiscal year, the average per pupil expenditure of schools described in subsection (a) may be reduced by the local educational agency in the exact proportion to the average reduction of expenditures for all schools in such agency."

(b) EFFECTIVE DATE.—The amendment made by paragraph (2) shall be effective on or after July 1, 1992.

Page 99, after line 14, insert the following:

SEC. 302. REPORT AND AUTHORIZATION EXTENSIONS.

Section 102 of Public Law 102-62 is amended—

(1) in subsection (d) by striking "2" and inserting "3"; and

(2) in subsection (h)—

(A) by striking "1991" and all that follows through "and 1993"; and

(B) by inserting "1992 through 1995".

Page 3, line 24, strike "14" and insert "18".

Page 4, line 12, strike "and".

Page 5, line 4, strike the period and insert "; and".

Page 5, after line 4, insert the following:

"(D) four members of State legislatures appointed by the President of the National Conference of State Legislatures, of which not more than two of whom may be of the same political party as the President of the United States.

2. Traficant amendment:

Page 105, after line 16, add the following new title:

TITLE VI—BUY AMERICAN

SEC. 601. SENSE OF THE CONGRESS.

It is the sense of the Congress that a recipient (including a nation, individual, group, or organization) or any form of student assistance or other Federal assistance under this Act should, in expanding that assistance, purchase American-made equipment and products.

SEC. 602. NOTICE.

The Secretary of Education shall provide to each recipient of student assistance or other Federal assistance under the Act a notice describing the sense of the Congress stated under section 601.

3. AuCoin amendment:

Page 38, beginning on line 15, strike "In the event" and all that follows through "such accomplishments" on line 20 and insert the following:

"In the event that a State has, pursuant to a State law enacted not later than July 1, 1992, established a reform panel which substantially satisfies the requirements of this section or has previously accomplished any of the reform activities under this part, the State is not required to reconstitute such panel or include such activities in the plan, but may include a request for a waiver, including a description of such panel or accomplishments.".

(Page 43, strike lines 13 through 16, and insert the following:

"(6) In the event that a local educational agency has, pursuant to a State law enacted not later than July 1, 1992, established a reform committee which substantially satisfies the requirements of this section or has previously accomplished any of the reform activities under this part, the local educational agency is not required to reconstitute such committee or include such activities in the plan, but may include a request for a waiver, including a description of such committee or accomplishments.".

4. Wheat amendment:

Page 99, line 3, strike "AMENDMENT" and insert "AMENDMENTS".

Page 99, after line 14, insert the following section:

SEC. 302. PARENTS AS TEACHERS PROGRAMS.

Title IV of the Elementary and Secondary Education Act of 1965 is amended by inserting at the end the following new part:

"Part G—Parents as Teachers

"SEC. 4701. SHORT TITLE.

"This part may be cited as the "Parents as Teachers: the Family Involvement in Education Act of 1992".

"SEC. 4702. FINDINGS.

"The Congress finds—

"(1) increased parental involvement in the education of their children appears to be the key to long-term gains for youngsters;

"(2) providing seed money is an appropriate role for the Federal Government to play in education;

"(3) children participating in the parents as teachers program in Missouri are found to have increased cognitive or intellectual skills, language ability, social skills and other predictors of school success;

"(4) most early childhood programs begin at age 3 or 4 when remediation may already be necessary; and

"(5) many children receive no health screening between birth and the time they enter school, thus such children miss the opportunity of having developmental delays detected early.

"SEC. 4703. STATEMENT OF PURPOSE.

"It is the purpose of this part to encourage States to develop and expand parent and early childhood education programs in an effort to—

"(1) increase parents' knowledge of and confidence in child-rearing activities, such as teaching and nurturing their young children;

"(2) strengthen partnerships between parents and schools; and

"(3) enhance the developmental progress of participating children.

"SEC. 4704. DEFINITIONS.

"For the purposes of this part—

"(1) the term "developmental screening" means the process of measuring the progress of children to determine if there are problems or potential problems or advanced abilities in the areas of understanding and use of language, perception through sight, perception through hearing, motor development and hand-eye coordination, health, and physical development;

"(2) the term "eligible family" means any parent with one or more children between birth and 3 years of age, or any parent expecting a child;

"(3) the term "lead agency" means the office or agency in a State designated by the Governor to administer the parents as teachers program authorized by this part;

"(4) the term "parent education" includes parent support activities, the provision of resource materials on child development and parent-child learning activities, private and group educational guidance, individual and group learning experiences for the parent and child, and other activities that enable the parent to improve learning in the home;

"(5) the term "parent educator" means a person hired by the lead agency of a State or designated by local entities who administers group meetings, home visits and developmental screening for eligible families, and is trained by the Parents As Teachers National Center established under section 4708; and

"(6) the term "Secretary" means the Secretary of Education.

"SEC. 4705. PROGRAM ESTABLISHED.

"(a) IN GENERAL.—

"(1) The Secretary is authorized to make grants to States to pay the Federal share of the cost of establishing, expanding, and operating parents as teachers programs.

"(2) In awarding grants under paragraph (1), the Secretary shall give special consideration to applicants whose programs primarily serve hard-to-serve populations, including—

"(A) teenaged parents,

"(B) illiterate parents,

"(C) economically disadvantaged parents,

"(D) offenders and their families,

"(E) unemployed parents,

"(F) learning disabled parents, and

"(G) non-English speaking parents.

"(3) In determining the amount of a grant under paragraph (1), the Secretary shall take into consideration the size of the population to be served, the size of the area to be served, and the financial resources of such population and area.

"(b) SPECIAL RULE.—Any State operating a parents as teachers program which is associated with the Parents As Teachers National Center located in St. Louis, Missouri, shall be eligible to receive a grant under this part.

"SEC. 4706. PROGRAM REQUIREMENTS.

"(a) IN GENERAL.—(1) Each State receiving a grant under section 4705(a) shall conduct a parents as teachers program which—

"(A) establishes and operates parent education programs including programs of developmental screening of children; and

"(B) designates a lead State agency which shall—

"(i) hire parent educators who have had supervised experience in the care and education of children;

"(ii) establish the number of group meetings and home visits required to be provided each year for each participating family, with a minimum of 4 group meetings and 8 home visits for each participating family;

"(iii) be responsible for administering the periodic screening of participating children's educational, hearing and visual development, using the Denver Developmental Test, Zimmerman Preschool Language Scale, or other approved screening instruments; and

"(iv) develop recruitment and retention programs for hard-to-reach populations.

"(2) Grants awarded section 4705(a) shall only be used for parents as teachers programs which serve families during the period of time beginning with the last 3 months of a mother's pregnancy and ending when a child attains the age of 3.

"SEC. 4707. PARENTS AS TEACHERS NATIONAL CENTER.

"The Secretary shall establish a Parents As Teachers National Center to disseminate information to, and provide technical and training assistance to, States establishing and operating parents as teachers programs.

"SEC. 4708. EVALUATIONS.

"The Secretary shall complete an evaluation of the State parents as teachers programs within 4 years from the date of enactment of this part.

"SEC. 4709. APPLICATION.

"Each State desiring a grant under section 4705(a) shall submit an application to the Secretary at such time, in such manner and

accompanied by such information as the Secretary may reasonably require. Each such application shall describe the activities and services for which assistance is sought.

"SEC. 4710. PAYMENTS AND FEDERAL SHARE.

"(a) PAYMENTS.—The Secretary shall pay to each State having an application approved under section 4709 the Federal share of the cost of the activities described in the application.

"(b) FEDERAL SHARE.—(1) The Federal share—

"(A) for the first year for which a State receives assistance under this part shall be 100 percent;

"(B) for the second such year shall be 100 percent;

"(C) for the third such year shall be 75 percent;

"(D) for the fourth such year shall be 50 percent; and

"(E) for the fifth such year 25 percent.

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

"SEC. 4711. AUTHORIZATION OF APPROPRIATIONS.

"There are authorized to be appropriated $20,000,000 for each of the fiscal years 1992, 1993, 1994, 1995, and 1996 to carry out this Act.".

5. Kostmayer and Slaughter amendment:

Page 46, line 12, strike "and".

Page 46, line 22, strike the period and insert a semicolon.

Page 46, after line 22, insert the following:

"(M) provides special attention to the needs of females, including instructional programs and activities that—

"(i) encourage increased participation in math and sciences; and

"(ii) promote gender equity in classrooms and curricula; and

"(N) provides for the ongoing evaluation of the impact of the local plan on the separate educational achievements of girls and boys.".

6. Hall of Ohio amendment:

Page 105, after line 16, insert the following:

TITLE VI—CIVIC AND CHARACTER VALUES-IN-SCHOOLS

SEC. 601. SHORT TITLE.

This title may be cited as the "Civic and Character Values-In-Schools Act of 1992".

SEC. 602. PURPOSE.

The purposes of this title are—

(1) to establish a commission to examine the issues associated with the teaching of values in elementary and secondary schools and to stimulate research in ethics and values;

(2) to recommend to the President and to Congress how the Federal Government, through executive action and legislation, can promote the teaching of values in American schools, including encouraging the offering of independent courses on values, and the integration of values into existing courses;

(3) to explore, assess, and stimulate a variety of approaches to teaching values;

(4) to identify civic and character values that are supported by a consensus of the people of the United States as essential to a complete education and preparation for becoming productive members of society and that may be appropriately endorsed and promoted by the Federal Government; and

(5) to identify the ways in which judgments of values and of right and wrong are implicated in matters of public and private concern.

SEC. 603. FINDINGS.

The Congress finds that—

(1) many Americans of all economic and social levels, religious persuasions, and ages, no longer make determinations of right and wrong as to their own actions or the actions of others in matters of both public and private concern;

(2) educational institutions, which have traditionally played a role in assisting students to make such determinations, no longer receive explicit authority or proper assistance necessary to fulfill this responsibility;

(3) the Nation has witnessed a national moral recession in governmental and political activities, scientific research, and business and commerce, in which individuals have failed to consider the ethics governing their behavior;

(4) statistics show alarming increases in individual and gang violence, drug and substance abuse, and suicide among both young people and adults;

(5) polls show that Americans overwhelmingly prize values such as honesty, but believe that people are less honest today than in the past;

(6) leaders representing a broad spectrum of political, social, and religious beliefs believe that education in moral issues contributes to good citizenship and have called for strengthening the teaching of democratic values;

(7) training in ethics is an ongoing concern in business and industry and in public service; and

(8) while education remains the responsibility of local and State governments, the Congress and the Federal Government may appropriately provide assistance to educational agencies and institutions attempting to promote civic and character values.

SEC. 604. ESTABLISHMENT.

There is established the Commission on Values Education (in this title referred to as the "Commission").

SEC. 605. DUTIES; REPORT.

(a) DUTIES.—The Commission shall—

(1) consider the widest range of values for inclusion in the consensus of values that should be taught, including honesty, integrity, tolerance, self-discipline, self-respect, civility, importance of family, justice, equality, the rule of law, individual rights, the common good, love of country, love of knowledge, responsibility and accountability, protection of oneself and others from degradation and abuse;

(2) conduct interviews, meetings, hearings, and conferences in various regions and localities in the United States to gather the opinions of a wide variety of individuals, including educators and educational administrators, students, parents, philosophers and theologians, civic, religious, and professional leaders, business leaders, social service professionals, political leaders, persons prominent in the arts, entertainment, and sports, and concerned citizens;

(3) seek the cooperation, advice, and assistance of the Department of Education and such other Federal, State, and local agencies, and private and religious organizations, institutions, and associations, as may be helpful in carrying out its purposes and duties; and

(4) recognize individuals and institutions who have demonstrated outstanding success in teaching values; and

(5) identify the potential of values education for reducing the incidence of problems such as those described in section 603(4).

(b) REPORT.—The Commission shall report its findings and recommendations to the Congress and the President not later than 1 year after the enactment of this Act. Such reports shall include—

(1) its recommendations for specific legislation or executive actions and broad policy goals and objectives; and

(2) a recommendation as to the establishment within the Federal Government of a clearinghouse for programs and ideas relating to values education.

SEC. 606. MEMBERSHIP AND APPOINTMENT OF COMMISSION.

(a) MEMBERSHIP.—The Commission shall be composed of 17 members as follows:

(1) Seven members each appointed by the Speaker of the House of Representatives and the majority leader of the Senate, in consultation with the respective minority leaders, from among individuals who are broadly representative of, but not restricted to—

(A) professional educators, teachers, and educational administrators;

(B) parents of students at elementary and secondary levels;

(C) students at secondary levels;

(D) philosophers, theologians, and religious leaders;

(E) State and local elected and appointed government officials, including members of State and local boards of education;

(F) individuals prominent in sports, the arts, and entertainment;

(G) individuals active in business, the professions, or civic activities;

(H) social service professionals; and

(I) the general public.

(2) One member each of the House of Representatives and the Senate, designated by the Speaker of the House and the majority leader of the Senate, respectively.

(3) The Secretary of Education or a designee of the Secretary.

(b) VACANCIES.—A vacancy in the Commission shall be filled in the manner in which the original appointment was made.

(c) TERMS.—Each member shall be appointed for the life of the Commission.

(d) CO-CHAIRS OF COMMISSION.—The Speaker of the House and the majority leader of the Senate shall each designate a co-chair of the Commission from members appointed under subsection (a)(1) or (a)(2).

SEC. 607. COMPENSATION.

(a) PAY.—Members of the Commission shall serve without compensation.

(b) TRAVEL EXPENSES.—Members of the Commission shall receive travel expenses, including per diem in lieu of subsistence, in accordance with sections 5702 and 5703 of title 5, United States Code.

SEC. 608. POWERS.

(a) MEETINGS.—The Commission shall first meet not more than 30 days after the date on which the last member is appointed to the Commission and thereafter upon the call of either co-chair or a majority of the members.

(b) HEARINGS AND SESSIONS.—The Commission may, for the purpose of carrying out this title, hold hearings, sit and act at times and places, take testimony, and receive evidence as the Commission considers appropriate. The Commission may administer oaths or affirmations to witnesses appearing before it.

(c) ACCESS TO INFORMATION.—The Commission may secure directly from any Federal agency information necessary to enable it to carry out this title. Upon the request of co-chair of the Commission, the head of such agency shall furnish such information to the Commission.

(d) DIRECTOR.—The Commission shall have a Director, who shall be appointed by the co-chairs. The Director shall be paid at a rate

not to exceed the maximum rate of basic pay payable for grade GS–15 of the General Schedule.

(e) STAFF.—The Director shall appoint such staff members as may be necessary to perform the work of the Commission. In allocating authorized, appropriated, and contributed funds, priority shall be given to those activities, such as hearings and conferences, designed to elicit the broadest public participation in the Commission's deliberations, rather than to the payment of professional staff.

(f) USE OF SERVICES AND FACILITIES.—Upon the request of the Commission, the head of any Federal agency may make available to the Commission any of the facilities and services of such agency.

(g) PERSONNEL FROM OTHER AGENCIES.—Upon the request of the Commission, the head of any Federal department or agency may detail, on a reimbursable basis, any of the personnel of such department or agency to the Commission to assist it in carrying out its duties.

SEC. 609. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to carry out this title $500,000 for the fiscal year 1992, and such sums as may be necessary for the fiscal year 1993. Amounts appropriated pursuant to this section shall remain available until expended.

SEC. 610. TERMINATION.

The Commission shall terminate 30 days after the date of the submission of its final report to the Congress.

Page 52, line 12, strike "and".

Page 52, line 16, strike the period at the end and insert "; and".

Page 52, after line 16, insert the following:

"(16) development and implementation of programs that help stimulate understanding ethics, civic and character values, and the principles of democracy as a means of enhancing and improving elementary and secondary education.".

Page 105, after line 16, insert the following:

TITLE VI—DEMONSTRATION PROGRAM

SEC. 602. AMENDMENT TO SECRETARY'S FUND FOR INNOVATION IN EDUCATION.

(a) PROGRAM AUTHORIZED.—Paragraph (2) of section 4601(a) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 3151(a)) is amended—

(1) by striking "and" at the end of subparagraph (C);

(2) by striking the period at the end of subparagraph (D) and inserting "; and"; and

(3) by adding at the end the following:

"(E) help stimulate understanding of ethics, civic and character values, and the principles of democracy as a means of enhancing and improving elementary and secondary education in accordance with section 4609.".

(b) ETHICS AND VALUES DEMONSTRATION PROGRAM.—Part F of title IV of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 3151 et seq.) is amended—

(1) by redesignating section 4608 the second place it appears as section 4610; and

(2) by inserting before section 4610 (as redesignated by paragraph (1) of this subsection) the following:

"SEC. 4609. ETHICS AND VALUES DEMONSTRATION PROGRAM.

"(a) GENERAL AUTHORITY.—The Secretary is authorized to make grants to State educational agencies, local educational agencies, institutions of higher education, and other public and private agencies, organizations, and institutions to conduct activities designed to help stimulate understanding of ethics, civic and character values, and the principles of democracy as a means of enhancing and improving elementary and secondary education.

"(b) USES OF FUNDS.—Grants made under this section may be used for—

"(1) the development of teaching materials;

"(2) teacher training and seminars;

"(3) the establishment of clearinghouses for values education programs;

"(4) proposals seeking to involve the whole school environment;

"(5) research and follow-up studies of existing programs of values and ethics education;

"(6) civic and character values education projects demonstrating a beneficial effect on individual ethical behavior and on the incidence of individual and gang violence, drug and substance abuse, and suicide;

"(7) projects that assist in identifying a consensus of values within a community that may be appropriately promoted in schools of the community;

"(8) projects that seek to develop model programs to promote values and ethics; and

"(9) projects examining values and responsible citizenship.

"(c) APPLICATION.—Each applicant desiring to receive a grant under this section shall submit an application in such form, in such manner, and containing or accompanied by such information as the Secretary may reasonably require. Each such application shall—

"(1) identify values and ethics that receive widespread support from a consensus of individuals in the United States;

"(2) describe the school population intended to benefit from the proposed activities;

"(3) demonstrate how the proposal fulfills the purpose described in subsection (a);

"(4) describe the methods to be used to evaluate the results of the proposed activities; and

"(5) provide assurances that the applicant will appoint an advisory board to assist the applicant in conducting the proposed activities, which board shall consist of individuals representative of—

"(A) parents;

"(B) educators;

"(C) community leaders;

"(D) social service professionals;

"(E) business leaders; and

"(F) the general public.".

Pursuant to the rule, the gentleman from Michigan [Mr. KILDEE] will be recognized for 20 minutes, and the gentleman from Pennsylvania [Mr. GOODLING] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Michigan [Mr. KILDEE].

□ 1130

Mr. KILDEE. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, the first part of these en bloc amendments is a package of amendments developed by the committee and proposed by myself for the purpose of further fine tuning the bill.

For example, they clarify that: National education standards are applicable to States on a voluntary basis; the national educational goals panel is to select measures and indicators relative to the national education goals; and the head of the unit of general purpose local government may be represented on a local reform committee by a designee.

Further, the amendment makes minor changes such as: Adding reduced class size and mentoring programs as authorized local uses of funds; and striking the provisions modifying the purpose of the national assessment of educational progress.

Included in my package is a provision developed by the Gentleman from Ohio [Mr. SAWYER] which expands the membership of the national education goals panel to include four representatives of State legislatures.

Other amendments in the package include:

And amendment by the gentleman from Ohio [Mr. TRAFICANT] which expresses the sense of the Congress that assistance provided under this act should be used to purchase American-made equipment and products.

An amendment by the gentleman from Oregon [Mr. AUCOIN] which waives certain reform requirements if a State or local educational agency has already accomplished them pursuant to a State law.

An amendment by the gentleman from Ohio [Mr. HALL] which authorizes a new commission, a demonstration program, and a local use of funds under H.R. 4323 related to values education.

An amendment by the gentleman from Missouri [Mr. WHEAT] which adds a parents-as-teachers provision to the bill to involve parents in the early education of their children, up to age 3.

An amendment by the gentleman from Pennsylvania [Mr. KOSTMAYER] which requires that equity in gender be used as criteria in the development and approval of local school district reform plans.

I urge the adoption of these amendments en bloc.

Mr. Chairman, I reserve the balance of my time.

Mr. GOODLING. Mr. Chairman, I yield 2 minutes to the gentleman from Alabama [Mr. CALLAHAN].

Mr. CALLAHAN. Mr. Chairman, I thank the gentleman for yielding me this time.

Mr. Chairman, I appreciate having the opportunity to speak on behalf of the Parents as Teachers Program that is included in the en bloc amendments being offered by Chairman KILDEE.

I first learned of the Parents as Teachers from Martha Seaman of Mobile, AL, who has been instrumental in bringing this important program to our south Alabama community. Through Parents as Teachers, Ms. Seaman and many dedicated volunteers have reached out to new parents to teach them how to teach their children.

Now most of us probably think parenting is one of those skills that comes naturally. But it doesn't, and oftentimes, mistakes we make in the early years of parenting effect our children for life.

Parents as Teachers recognizes this—it recognizes the fact that parents are

their children's first and most influential teachers. And that children, in their beginning years, learn more and at a much faster pace than at any other time in their lives.

I am pleased to be an original cosponsor of the Parents as Teachers Act, H.R. 520, which was introduced by my colleague from Missouri, Alan Wheat. This bill was inspired by programs like Missouri's and Mobile's highly successful Parents as Teachers Program, which has been proven effective in strengthening the foundations of later learning—language and intellectual development, curiosity, and social skills.

Through personalized home visits by trained parent educators, group meetings with other new parents, and formal screening to detect potential learning problems, Parents as Teachers gives children the best possible start in life.

Mr. Chairman, I come to the floor today to highlight this important program, and commend it to my colleagues' attention. It deserves our support. I am disappointed, however, that it appears to be the only rose in this bouquet of thorns that is being called the Neighborhood School Improvement Act, and I cannot support the bill.

Mr. KILDEE. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I appreciate the support of the gentleman from Alabama and his advocacy of this program. He has long been attached to it, and I appreciate his support.

Mr. Chairman, I yield 2 minutes to the gentleman from Ohio [Mr. SAWYER].

Mr. SAWYER. Mr. Chairman, I rise in support of the en bloc amendment.

As my subcommittee chairman noted, one of the components of this en bloc amendment is a provision that would add four State legislators to the national goals panel.

Under the bill as it is currently drafted, the national goals panel will have 14 members—Governors, representatives appointed by the President, and Members of Congress.

Mr. Chairman, the addition of four State legislators will complete the circuit of responsibility for educational reform. More than 40 State constitutions have strong provisions outlining the responsibilities of State legislatures for providing education in their States.

In almost every State, education spending constitutes the largest functional category. Nationwide, 48 percent of the total spent on elementary and secondary education is spent by the States.

Their representation on the national goals panel will provide a crucial policy link. If we are to expect State legislatures to implement the funding and policy decisions to advance State-based educational reform, surely they should be involved in the development of those policies.

I thank my chairman for including my amendment and I urge the adoption of the en bloc amendment.

Mr. GOODLING. Mr. Chairman, I yield 3½ minutes to the gentleman from California [Mr. RIGGS].

Mr. RIGGS. Mr. Chairman, I thank the gentleman, our distinguished ranking member on the Committee on Education and Labor, for yielding me this time.

First of all, I rise to make a disclaimer prior to my remarks, and that disclaimer is that my opponent has been endorsed by all the teachers' unions in my district, and I just simply want to say that the teachers' unions have again proven themselves, by their actions, to be more a labor union than an association of concerned educators.

I also rise as a former school board member and two-term school board president in my hometown community and the father of three children, one of whom, Matthew, joins me here on the House floor today.

My experience has given me true respect for the long tradition in this country of decentralized decisionmaking in public education, and I truly can say that I believe in site-based decisionmaking and in site-based management in our schools today. I also recognize, as I think most of my colleagues in this body do, that equality of opportunity in our society begins with access for all children, particularly those from poorer socioeconomic backgrounds, to a sound public education. That is where equality of opportunity really begins in our society.

I also must say, as someone who represents a growing community in California and a State, frankly, which is facing a very severe budget crisis, that there is a genuine need for more taxpayer funding for public education in this country today, particularly to help our schools meet their capital needs, as our plants must expand to accommodate the kids coming into our schools.

Having said all of that, I truly believe that increased Federal aid should be coupled with qualitative reforms such as those contained in the America 2000 proposal put forward by the Bush administration and advocated around the country, as the chairman of the committee was saying, by Secretary Alexander, who I think has done a very admirable job. I think those qualitative reforms ought to include incentives for schools to move toward smaller class sizes and longer school days.

Last, I would like to believe that those school reforms could have contained my amendment as I proposed before the Committee on Rules yesterday, the Parental Responsibility Act. But my amendment was deemed too controversial, so I want to take the remaining moments here to explain to my colleagues exactly what my amendment would have done, and you determine whether, in fact, it is too controversial to be accepted into the leadership en bloc amendment.

My amendment stated that, in order for a local school district to receive funding under the bill, the school district should make, or shall make, available to parents a parental educational responsibility agreement, a very simple contract between parents, teacher, and school. By signing this pledge, parents and schools vow to make every effort to do the best they can for the children. For example, parents and teacher and school contract to make sure the children coming to school are well rested, that they have a quiet place to study, and that they develop studious behavior. Parents take responsibility for attending parent-teacher conferences at schools, and schools have responsibilities as well. The schools would make every effort to welcome parents and offer suggestions to assist parents to adhere to their pledges.

Many may take those goals for granted. I know through my own first-hand experience better that this is unfortunately the exception rather than the rule.

Education does not just happen at school. As I mentioned from my past experiences, I can truly say that it is the rare child that comes into the public school system today with the self-determination and the self-motivation to succeed in that environment, and we need to do all we can to encourage parents to take a greater role in education of their children.

Parents, in fact, are the crucial determining factor as to whether or not children receive a good education in the public school environment today. Parents are failing to fulfill their critical role, and my amendment would address this very real problem in America today.

□ 1140

Mr. KILDEE. Mr. Chairman, I yield 4 minutes to the gentleman from Ohio [Mr. HALL].

Mr. HALL of Ohio. Mr. Chairman, I am pleased to support H.R. 4323, the Neighborhood Schools Improvement Act. This bill is the first step in bringing comprehensive reform to our system of elementary and secondary education.

I am also pleased, Mr. Chairman, that my colleagues on the Education and Labor Committee have accepted my amendments on civic and character values as part of the committee's en bloc amendments. I would like to extend my appreciation to Chairmen BILL FORD and DALE KILDEE for their assistance in bringing these amendments to the floor.

Hardly a day goes by in which the subject of values is not debated by Presidential candidates, journalists, and the public. Members on both sides

of the aisle speak about family values in connection with various bills we bring up here in the House. Now, for the first time, Members will have an opportunity to vote on amendments to promote commonly accepted values in our schools. These may be civic values such as justice, equality, love of country; or they may be character values like honesty, integrity, or self-discipline.

I introduced values legislation several years ago when an Ohio high school principal told me this story. He said his high school paper did a series of articles on cheating. Nowhere in the articles was it mentioned, according to this principal, that cheating was wrong. There was no discussion of the ethical dimension at all even though the students had a faculty adviser.

I point to this as a very simple example of why I think values can be promoted in the schools. Do we want to produce writers, who may compose well, research well, work fast, but cannot grapple with ethical questions? Later in life, a journalist is faced with countless questions of ethics. These include running or not running a story; revealing or not revealing a source; and being fair and balanced in the story.

Gandhi said:

All your scholarship, all your study of Shakespeare and Wordsworth would be vain if at the same time you do not build your character and attain mastery over your thoughts and your actions.

Our civic and character values-in-schools amendments, included in the Kildee en bloc amendments, do three things: First, they establish a national bipartisan Commission on Values Education to examine the issues associated with the teaching of values in our schools. The Commission is charged with identifying civic and character values that are supported by a consensus of the people. It will hold hearings around the country and consider the widest range of values, including honesty, integrity, love of country, and self-discipline. It will not dictate values from Washington or usurp any local control.

Second, our amendments add a 16th point to the list of activities that may be funded through the bill for school reform. It adds programs to "stimulate an understanding of ethics, civic and character values and the principles of democracy as an authorized activity for grants to local educational agencies." Third, these amendments establish an Ethics and Values Demonstration Program under the Secretary's fund for innovation in education. Grants under the demonstration program would be available for a variety of services including teacher training, curricula development, clearinghouses, and followup studies on the effects of values and ethics education.

Mr. Chairman, I am not talking about teaching far leftwing or far rightwing values in this bill. I am talking about telling students that it is wrong to cheat; That it is better to be kind than hurtful; That voting is a responsibility as well as a privilege. Ask your constituents what they think. I guarantee you that most parents want these kinds of issues taught in their schools.

A teacher and constituent of mine, Bob Thum, who testified in support of values education in Ohio and served on the Governor's Commission on Holocaust Education said to me:

The push to raise test scores must not come at the expense of creating a moral society, for in Nazi Germany leading Nazis were lawyers, physicians, professors, economists, and even theologians. Many graduated top of their class.

Mr. Thom went on to endorse my bill and called for teaching values.

In our efforts to improve education, we should not forget that our forefathers accepted a basic code of ethics that underlies society. The education for democracy project of the American Federation of Teachers [AFT] states:

Devotion to human dignity and freedom, to equal rights, to social and economic justice, to the rule of law, to civility and truth, to tolerance and diversity, to mutual assistance, to personal and civic responsibility, to self-restraint and self-respect—all these must be taught and learned and practiced.

In 1991, the final report by the National Commission on Children, known as the Rockefeller Commission, cited as a "perverse result" that "a major social institution (schools) entrusted by most parents with preparing children for adulthood is too often silent on critical moral and ethical issues." Both the Association for Supervision and Curriculum Development and the National School Boards Association have spoken out in favor of teaching values.

The Neighborhood Schools Improvement Act includes many excellent provisions to reform education while allowing flexibility and the necessary State and local control. The Kildee en bloc amendments add an important values component which will send a message to the nation that we are serious about developing character and responsibility in our children.

I urge my colleagues to vote for the Kildee en bloc amendments.

Mr. GOODLING. Mr. Chairman, I yield 4 minutes to the gentleman from Texas [Mr. ARMEY].

Mr. ARMEY. Mr. Chairman, I thank the gentleman for yielding me this time.

Mr. Chairman, further evidence that this is a Democrat bill and not the President's bill is found in the fact that of the 29 requests that went before the Democrat-controlled Rules Committee, two Republican requests were offered, that of the gentleman from Pennsylvania [Mr. GOODLING] and myself. The rest of the Republican request, 12 in all, were rejected.

They took eight Democrat requests and wrapped them together in this en bloc amendment. They precluded the amendment of my good friend, the gentleman from California [Mr. RIGGS], who spoke earlier, because it was too controversial that parents should have a right to reach an agreement with teachers in a school about what would be the quality of their youngsters' education and what would be the relative responsibility of the parents and teachers in that education. That was too controversial for the Rules Committee.

They included three amendments by the gentleman from Ohio [Mr. HALL], a member of the Rules Committee, on values in education. The gentleman from Ohio [Mr. HALL] has an amendment that is not too controversial for the Rules Committee.

Well, it is controversial with me, Mr. Chairman. I happen to be a parent. I speak with parents all the time, and I can tell you, Mr. Chairman, the parents of America are not concerned that their children are flunking values. They are concerned that their children are not learning to read. They are not learning to write. They are not learning to spell. They are not learning penmanship. They are not learning their mathematics. They are not learning their geography.

And why are the children not learning these things we expect to be the necessary legitimate responsibility of the teachers to impart to these youngsters? Because the teachers find it easier to teach values.

I would submit, Mr. Chairman, that it is the right of the parents, it is the prerogative of the parents, it is the duty of the parents, which the parents accept and assert, to teach values to their own children in their own way without interference.

We, as parents, do want to accept the responsibility and exercise the responsibility to prepare our children for adulthood. We do not want the risk that some enlightened member of the National Education Association will instead prepare our children for adultery, because their values are so flexible and inclusive.

Now, a few points about the debate we have heard. I have been amused by the debate. There is something for everyone.

The Duke University English Department that has been so destructive in American education must have been thrilled when they heard the deconstructionism earlier from one Member of the majority party who gave us the incredible view that choice for parents is totalitarianism. I do not know how you reckon that one, Mr. Chairman, but letting parents be involved in their children's education and to have a choice which school their children will attend is according to the majority totalitarianism. They would rather have a situation where they or

some of their agents in the educational establishment dictate to the parents and to the children which school they will attend.

Now, we had another slip, another misrepresentation earlier. It was said in the debate that there is no difference in the authority that is given to the Secretary of Education under the committee's bill and under my amendment and that offered by the gentleman from Pennsylvania [Mr. GOODLING].

The fact is that the committee bill gives the Secretary only a technical authority to reject plans, not a basis to reject them on the substance of the plan.

Mr. KILDEE. Mr. Chairman, I yield such time as he may consume to the gentleman from Florida [Mr. BENNETT].

(Mr. BENNETT asked and was given permission to revise and extend his remarks.)

Mr. BENNETT. Mr. Chairman, I rise in support of this legislation, and particularly in support of the en bloc amendments including the amendment of the gentleman from Ohio [Mr. HALL].

Mr. Chairman, I am honored to be a cosponsor of the Hall amendment. It presents a practical course of action in a field of education in which I have long been interested—the teaching of values and standards of behavior. My legislation in this field provided grants to school systems in the field of good citizenship. Mr. HALL's proposal could be broader in scope; and I hope that, in fact, this will be the case.

H.R. 4323 will put the Federal Government more deeply in education than ever before; and my school superintendents have asked my support for it and opposition to the proposed substitutes. I believe this legislation (H.R. 4323) is supportive of our youth and for the future of our country.

Mr. KILDEE. Mr. Chairman, I yield 2½ minutes to the gentlewoman from Washington [Mrs. UNSOELD].

Mrs. UNSOELD. Mr. Chairman, I rise in support of the bill and of the en bloc amendments.

The committee chairman is to be commended for doing the very best with limited funds and leadership from a White House that was more interested in setting policy by press release.

This legislation seeks to use limited Federal dollars as an incentive for public school districts to undertake coordinated reform throughout the educational system. Mr. Chairman, I urge my colleagues to support this amendment. The Neighborhood Schools Improvement Act is an essential new Federal initiative that seeks to promote systemwide change in public education. A key component in creating that change is through the establishment of panels at the State and local levels which will then develop plans for comprehensive reform.

An important provision in Mr. KILDEE's amendment will prevent an injustice for these States that have already passed and are now implementing education reform laws. It merely allows these States to apply for a waiver of the membership requirements for the State and district committees authorized in H.R. 4323 if a State is already fulfilling the legislation's goals with somewhat differently constituted State and local panels.

This provision in the amendment is not a loophole permitting business as usual. There are a few States, such as Oregon and Washington, that have already enacted sweeping changes in their educational systems. If these States can demonstrate that they are already meeting the goals of H.R. 4323, I'm sure my colleagues in the House will agree that to force them to dismantle already existing committees and form new ones would severely hinder the reform efforts in those States. Without this amendment these States face major disruptions and a loss of momentum in moving ahead with the very educational reforms sought by the bill.

Mr. Chairman, I want to thank Mr. KILDEE for addressing this concern and including it in his amendment. And, again, I urge my colleagues to support this amendment and this very important education reform bill.

□ 1150

Mr. GOODLING. Mr. Chairman, I yield 3 minutes to the gentleman from Virginia [Mr. WOLF].

Mr. WOLF. Mr. Speaker, I rise in strong support of the Hall amendment. Let me congratulate the gentleman from Ohio [Mr. HALL] for the amendment, and I say to the gentleman from Texas [Mr. ARMEY], who is still in the Chamber, I also rise in support of the Armey amendment. I believe in the Armey amendment. I am going to support it. But on this, Mr. HALL is exactly right.

I would say that Mr. HALL'S amendment may be even more important than the bill that is being taken up. This proposed will help the Nation. It has been said that, "Values are the emotional rules by which the Nation governs itself." These rules such as honesty, tolerance, integrity, and respect organize our personal lives and bring meaning to our relationships with others.

What is wrong today in our Nation's schools? All five of my children attended public school. I do not want a teacher in a public school teaching my children about religion, but on fundamental values of honesty, integrity, "do not steal," and "love your family," "do not lie," "love your countings," "treat people with compassion," I think promoting the above values can be very effective in our public schools.

As the ranking Republican on the Select Committee on Children, Youth, and Families, I can assure my colleagues today that too many children are not learning the rules.

We need to identify a set of core, basic, essential shared values that we as a society are willing to promote—honesty, integrity, "do not steal," do not lie," "do not cheat," "love your parents," "love your country," "treat people with compassion." This is the task of the proposal Commission on Values Education to identify those values that we Americans agree are the most essential to ensuring a personally meaningful life.

I believe that this proposed commission and demonstration project is consistent with the recommendations made by the bipartisan National Commission on Children, that stated that children and adolescents need clear and consistent message about personal conduct and public responsibility.

I should also tell my colleagues on both sides that the National Commission was unanimous, absolutely everyone who was on the commission, everyone—Republicans, Democrats, conservative, liberal—signed this National Commission report.

Clearly it is time that we as a nation renew our commitment to the values of dignity and character. I must say there is no substitute for parents and the values they can teach their children. Noted psychologist Dr. James Dobson has said that, "Values aren't only taught, they are caught" by children. Clearly families have the primary right and responsibility to promote values. But this amendment recognizes that it is time to reinforce these values through our school system, the rules that we as a society expect them to live by—honesty, integrity, compassion, self-respect, responsibility.

This is an important amendment. I commend Mr. HALL. In fact, I hope—and I sense that this bill may be vetoed—I would hope that Mr. KILDEE and Mr. FORD and others could take this amendment out. It is so important that if this bill goes down, it is important to pass the HALL amendment on its own, to move on this issue of such importance to our Nation.

This amendment is something that would be helpful to teach kids, "do not steal, do not cheat, love your mom, love your dad, treat other people with respect, the Golden Rule, 'Do unto others as you would have them do unto you.'" Teach fundamental values.

The proposed Commission on Values Education would be bipartisan and would hold hearings across the Nation to identify what many Americans would agree are the care and basic values that ought to be passed on to our young people. This may not be the perfect solution, but I believe it's something we should give a chance to work.

Again, I want to commend the gentleman from Ohio. I think it is a good amendment. I urge the gentleman from

Texas [Mr. ARMEY] to look at this again.

I support the gentleman from Texas' amendment; the Armey amendment is good, but the Armey amendment with the Hall amendment could be an effective combination for our Nation.

Mr. KILDEE. Mr. Chairman, I yield 2 minutes to the gentleman from Missouri [Mr. WHEAT].

Mr. WHEAT. Mr. Chairman, I would like to thank the chairman of the full committee, the gentleman from Michigan [Mr. FORD], the chairman of the subcommittee, the gentleman from Michigan [Mr. KILDEE], and the ranking member, the gentleman from Pennsylvania [Mr. GOODLING], for their work on H.R. 4323 and their constant efforts on behalf of America's children.

I also want to thank my cosponsor of the parents-as-teachers bill, Mr. CALLAHAN, the gentleman from Alabama, who worked with me on an early-childhood education program which began in Missouri over a decade ago. This program has helped parents in Missouri and in Alabama and in other States, has helped parents play a greater role in the development of their children.

The benefits of the Parents-as-Teachers Programs are well chronicled in various evaluations and studies. By focusing on the involvement of parents in the early development of their children, parents-as-teachers meets the first national education goal, it prepares all children in America to start school ready to learn.

This provision does not create a new program or bureaucracy or nationalize existing Parents-as-Teachers Programs. What it does is, very simply, provide Federal support through the Secretary of Education for a proven early childhood development program at the State level. The Parents-as-Teachers Program consists of home visits by parent educators who help design an individual program for each family. Parents receive a wide range of useful and understandable information about the development of their children from the third trimester of pregnancy up to 3 years of age. In addition, the program provides periodic health screenings for infants, toddlers, and preschoolers, and gives participating parents an opportunity to meet in groups and share their child-raising experiences.

Parents are the first and most important teachers a child will ever have. As a nation, we must give parents every possible means of assistance to help their children start their life with healthy and curious minds and sound bodies.

Again, I would like to thank the gentleman from Michigan [Mr. FORD], the gentleman from Michigan [Mr. KILDEE], and the gentleman from Pennsylvania [Mr. GOODLING] for their work on this bill, and I urge adoption of the en bloc amendments.

Mr. GUNDERSON. Mr. Chairman, I yield 3½ minutes to the gentleman from Michigan [Mr. HENRY].

Mr. HENRY. I thank the gentleman for yielding.

Mr. Chairman, I do not have any problems with the amendments. In fact, I am a cosponsor, with Mr. HALL, on the values amendment. I appreciate his ongoing interest in this for many, many years, and appreciate his sensitivity and commitment to the issue.

I certainly do not have any problem with the Traficant amendment, which, wherever possible, would buy American paper for kids rather than imported paper products and pencils. I am certainly in support of Mr. KOSTMAYER's efforts to address the issue of the equity of special outreach with the problem of getting women students comparable incentives and instruction in math and science. These are fine amendments. I do not find them controversial. But I do want to remind our Members, however, once again, that the rule, and the en bloc amendment, illustrates what has happened in an area in which we normally are able to come to a very strong bipartisan consensual agreement.

As the ranking member, the gentleman from Pennsylvania [Mr. GOODLING], pointed out, this is the first time in almost two decades—think of that, the first time in almost two decades—we have had a major piece of elementary and secondary education before this floor on which there has not been strong bipartisan leadership in agreement.

I very much regret that the original bill that was reported by this committee was drawn back. To this day I still do not know why that has happened. I do not know why we have before this body today a bill which the gentleman from Montana [Mr. WILLIAMS] said not more than 30 minutes ago, "This bill doesn't provide the leadership we need."

It is a bill which the chairman of the committee says it is not going to revolutionize anything; a bill which the Secretary of Education says the only ones who should be happy are those who want schools to stay forever just the way they are.

We have heard a lot of talk in the general debate about some of the program innovations here that are helpful: Professional development initiatives, health and social services integration; all these things are valid. They are all valuable.

The problem is they miss the point. They miss the point in that the argument over educational reform was to reform the process in such a way that we would begin to look at and hold the educational system accountable by way of its outputs and not just by way of its inputs.

□ 1200

It is as if the automobile industry said, "Continue to buy American even though our cars cost more and the J.D. Power quality index doesn't show them to match the competition."

Now, I can say that has changed, but that kind of logic has not changed when it comes to this bill. What the administration and what the Governors of both parties have called for were break-the-mold schools. There are already over 700 local design teams in place for new American schools. That whole program is slighted by this bill.

I do point out, in terms of the partisan way in which this was handled, there were 29 amendments brought to the Committee on Rules to be considered for incorporation en bloc. Twelve of them were Republican amendments. Instead only eight Democrat amendments were accepted.

The one major Democrat amendment which was rejected happened to be that from the gentleman from Oklahoma [Mr. MCCURDY], who hoped to have Governor Clinton's position on educational choice considered by this House, and the Committee on Rules rejected their own Democrat Governor's hope to put that question before this House as a freestanding "yes" or "no" vote.

So, once again, these amendments in some ways are helpful. I have no problem with them. Some I obviously support, but they do not get to the heart of the matter.

This bill is not a mouse that is roaring. This bill is not even a mouse.

Mr. GUNDERSON. Mr. Chairman, I yield 3 minutes to the gentleman from Virginia [Mr. BLILEY].

Mr. BLILEY. Mr. Chairman, it has become increasingly more evident that American children are coming up short in regards to primary and secondary education. According to the 1988 International Assessment of Education Progress, on the average, U.S. 13-year-olds scored in the lowest group in both mathematics and science proficiency; the International Association for Evaluation of Education Achievement reported that since the 1960s, scores from the United States have steadily declined as those of Europe have steadily risen in calculus, geometry, and advanced algebra. Within America, one can see evidence of this decline—the average SAT score has dropped from 980 in 1963, to 900 in 1990, with the verbal declining from 478 to 424, and the math, from 502 to 476.

Some would like us to believe that these declines are the result of a lack of spending—that the Government is short changing our children, and by throwing more money in the system these disturbing trends will turn around. Not only do I find this argument to be overly simplistic, but I believe it to be rooted in assumption, and based on no factual precedents.

Over the past years, we have seen an inverse relationship between scoring levels and funding. Total spending on

primary and secondary education was $247 billion in the 1991–92 school year, as compared to $146.3 billion in the 1986–87 school year. Total national expenditures for all levels of education have increased 25 percent since 1989.

America averages $3,238 per student at the elementary and secondary level, ranking fifth in the world behind Switzerland—$3,844, Norway—$3,307, Sweden—$3,293, and Canada—$3,436. One must remember two things when using these comparisons—the differences between our distribution system of moneys for education and the distribution systems of other countries, and the fact that this number represents the current expenditures divided by enrollment in both public, and private schools. More American children go to private schools than any other country in the world, thus making this per capita number lower than the actual resources that reach a child in the public school system.

If quality reflected funding, how does one explain that in 1991, Utah had an average SAT score of 1031, spending only $2,629 per student, whereas the District of Columbia had an average SAT score of 880, spending $7,550 per student?

If quality reflected funding, we would be among the brightest and the best—certainly scoring higher than the Japanese, who only average $1,904 per student, and the Germans who only spend $1,941 per student. But the fact of the manner is that we are not; 13 percent of American students leave high school without minimal reading skills, as opposed to 4 percent of Germans and 1 percent of Japanese.

And here we are today, with an opportunity to address this grave problem—yet, the solution proposed by the Democrats merely reauthorizes this same school system. Even the chairman of the committee has admitted that H.R. 4323 can do nothing to revolutionize the system. Of course, there are some reforms, such as allowing the distribution of condoms at school—but these are not the reforms we need. By seriously considering this legislation, we are demonstrating a complete disregard for the needs and the futures of each and every child in America.

Lately, we've heard a lot about change from the Democrats. But here is a concrete example of maintaining the status quo—the age old solution of putting more money in the system to fix the problem. If the United States had a surplus of money, perhaps true reform and more money would be just the ticket. But this is not the case. We must work within our limits. In order to address the problems we face now, we must institute true reform.

Parental choice is the future in elementary and secondary education. Just like our post graduates are allowed to use Federal moneys at any school of their choice, so should our youths be able to use Federal moneys at the school of their choice.

Choice will give minorities and disadvantaged children opportunities—opportunities presently reserved for only the wealthy. It will not leave the poor behind, but empower them with responsibility, and give them the chance to get out of a school not giving them the quality education they deserve. Choice will involve parents, and allow families to send their children to schools which combine education with the types of values to which they want their children to be exposed.

Choice will spark innovation and force our schools to be responsive to the consumer. Subjecting elementary and post secondary schools to the forces of the free market can only result in higher quality schools, ones that are not guaranteed students, but must earn them. We have seen these forces work in our university system, lets see them work in our elementary system.

Some may argue that choice will leave some children behind. To this I would say, we are already leaving the poor and disadvantage behind in the present system, and choice will give many more of these people the opportunity to advance. Others may argue that such a provision will drain the public school system of money, thereby leaving it worse off then it is now. By making this argument, one is assuming that children will flee the public schools. Such an assumption admits the failure of the present system. To this I would say, have more confidence in our public educators—give them the benefit of the doubt that they will rise to the demands of the free market place.

Some 62 percent of Americans support choice in education. Vote with America and support these much needed reforms.

Mr. KILDEE. Mr. Chairman, I yield 2 minutes to the gentlewoman from New York [Ms. SLAUGHTER], cosponsor of the Kostmayer-Slaughter amendment.

Ms. SLAUGHTER. Mr. Chairman, I rise in support of the Kostmayer-Slaughter amendment to ensure gender equity in education reform.

Earlier this year the American Association of University Women and the Wellesley College Center for Research on Women released a study entitled "How Schools Shortchange Girls." Statistics cited in the study are disturbing:

Boys receive more teacher attention and instructional time than girls;

There are no gender differences in math performance at age 9, but substantial differences by age 17.

Boys shout out answers eight times more than girls, but girls who do so are chastised for talking out of turn; and

Girls express strong feelings of insecurity and inability to perform in the classroom.

We must restore the voice and confidence of girls. Under this amendment, education improvement plans will be designed to increase girls' participation in the classroom, encourage their study of math and science, and promote gender equity in curricula.

Please join me today in supporting the Kostmayer-Slaughter amendment to ensure that all our children receive the training and skills they need for their own success, and the future competitiveness and productivity of our Nation.

Mr. KOSTMAYER. Mr. Chairman, today I read in the Washington Post that, despite administration promises, little has been accomplished to over come the glass ceiling which keeps women out of company board rooms and senior positions. It's no wonder the administration has been so unsuccessful, when earlier this year they were confronted by a report demonstrating how schools shortchange girls their response was to tell parents that if they "* * * believe that this is a serious problem, they should send their daughters to single-sex schools."

The report issued earlier this year the by American Association of University Women [AAUW] and Wellesley College found clear evidence that America's education system is not meeting girls' needs.

The report found that although girls and boys enter school roughly equal in measured ability, 12 years later, girls have fallen behind their male classmates in key areas such as higher level mathematics and measures of self-esteem.

It was noted that males in all grade levels receive more teacher attention that girls, and even when they are of equal ability, boys are more often encouraged to pursue continued education and careers in math and science while girls are discouraged.

There is a bias in our education system. This bias translates to a society where full-time women workers earn, on average, 68 cents for every dollar that a man earns, and that female college graduates can expect to earn less than male high school graduates.

When reading over H.R. 4323, a bill to promote reform and innovation in our Nation's schools, I was both surprised and dismayed to see that this issue of gender equity was not even addressed.

My amendment simply makes local education associations [LEA] consider the issue of gender equity when submitting their reform plan and analyzing the impact of their reforms.

Gender equity is an issue in our schools and in society, which must be addressed. In reforming our schools, we must overcome institutionalized sexism which leads to the notion that girls and boys are not equal.

The CHAIRMAN. The Chair announces that the gentleman from Pennsylvania [Mr. GOODLING] has 30 seconds remaining, and the gentleman from Michigan [Mr. KILDEE] has 5½ minutes remaining.

Mr. GOODLING. Mr. Chairman, I yield myself the balance of my time, and I will consume that 30 seconds by saying there is no question the Kildee, Sawyer, AuCoin amendments are cer-

tainly amendments that should be considered when dealing with this legislation. My concern is that there were 29 amendments proposed and only 7 accepted, all of which were from the other side of the aisle, and that would be my objection. The others beyond those three, of course, could all be considered during reauthorization of the elementary and secondary education programs next year.

I would also like to say that, as far as the parents as teachers program is concerned, that is what Even Start is all about. It says that we need to operate in a manner in which parents and children are working together so both become more literate and parents learn what it is they have to do to help preschool children to become reading ready. So, that is part of Even Start.

Mr. KILDEE. Mr. Chairman, I have no further requests for time.

Mr. ARMEY. Mr. Chairman, will the gentleman yield?

Mr. KILDEE. I yield to the gentleman from Texas.

Mr. ARMEY. Mr. Chairman, I would just like to make the point, and I discussed this with a lot of my friends on this side of the aisle: I will not be calling for a recorded vote on this amendment. It is a very complex matter with the eight Democrat amendments all rolled into one.

But I would like to make the point as I do that, Mr. Chairman, that the fact is there were so many good Republican amendments that should have been scheduled, could have been scheduled, and we should have made the time for a full discussion of all the good ideas, as well as the bad ideas, that we are discussing. Unfortunately the Democrats control the schedule, and they did not make that time available. They did not have time for those Republican amendments.

Nevertheless, Mr. Chairman, we know how this vote outcome would be, and it would be deleterious of me to call for a recorded vote, and I will not do so, but I hope the RECORD will show that I oppose the amendment.

Mr. WHEAT. Mr. Chairman, I would like to thank the chairman of the Committee on Education and Labor, Mr. FORD, the chairman of the Subcommittee on Elementary, Secondary, and Vocational Education, Mr. KILDEE, and the ranking member on the Committee on Education and Labor, Mr. GOODLING, for their work on H.R. 4323 and for their constant efforts on behalf of America's children.

I initially introduced the parents as teachers provision in the last Congress, and I am proud that it is being considered on the floor today. I have discussed this provision with Mr. FORD, Mr. KILDEE, and Mr. GOODLING, and their staffs over the last several months and I appreciate their advice and counsel. Committee members and their staff have had opportunities over the last few years to study this legislation, as well as parents as teachers programs nationwide, and to understand the benefits of the existing parents as teachers programs throughout the United States.

In our national debate about education, we often overlook the most valuable teachers our children could ever hope to find—their parents. Parents as teachers [PAT], an early childhood education program which began in Missouri over a decade ago, has helped parents play a greater role in the development of their children and, in the process, prepare our youngest citizens for the future.

To expand Missouri's pioneering effort—which has already served as a model for 37 States with parents as teachers programs—I would like to urge my colleagues to support the en bloc amendments to H.R. 4323. Parents as teachers programs are based on the principle that parents who take an early and active role in their child's education increase these youngsters chances for academic success and give them a life-long interest in learning. Through coordination with local school districts, this valuable program engages parents in a long-term partnership with their children's schools.

Many of the benefits of parents as teachers programs are well-chronicled in various evaluations and studies. For example:

Children participating in the parents as teachers program consistently outscored their peers who did not participate on measures of intellectual achievement, auditory comprehension, verbal ability, and language ability;

At the end of first grade, children from parents as teachers programs scored significantly higher than the comparison group on standardized reading and math tests;

According to teachers, more parents from PAT programs initiated requests for parent-teacher conferences after their children started school; and

Parents as teachers has also been lauded by the President and Mrs. Bush for its innovation and success.

By focusing on the involvement of parents in the early development of their children, parents as teachers meet the first national education goal—"all children in America will start school ready to learn." Parents as teachers also matches the objectives to meet this goal:

Every parent in America will be a child's first teacher and devote time each day to helping his or her preschool child learn;

Parents will have access to the training and support they need; and

Children will receive the nutrition and health care needed to arrive at school with healthy minds and bodies.

This provision does not create a new program or bureaucracy or nationalize existing parents as teachers programs—it simply provides Federal support through the Secretary of Education for a proven early childhood development program at the State level. By providing matching funds, the Federal Government will encourage States to create and expand parents as teaches programs throughout America. Parents will be able to volunteer for this program regardless of income level.

The parents as teachers program consists of home visits by parent educators who help design an individual program for each family. Parents receive a wide range of useful and understandable information about the development of their children from the third trimester of pregnancy up to 3 years of age. In addition, the program provides periodic health screenings for infants, toddlers, and preschoolers and gives participating parents an opportunity to meet in groups and share their childraising experiences.

The provisions would set up a $20 million competitive grant program for States who wish to create or expand their own parents as teachers program. Roughly 1,000 school districts nationwide could participate in the program with this Federal assistance. The provisions recognizes that States should eventually pick up the cost of the program, and phases out Federal funds for each State program through a declining match at 100 percent, 100 percent, 75 percent, 50 percent, 25 percent, for the 5-year authorization.

The provision would also establish a Parents as Teachers National Center to disseminate information to, and provide technical and training assistance to, States establishing and operating parents as teachers programs.

Parents are the first and most important teachers a child will ever have. As a nation, we must give parents every possible means of assistance to help their children start life with healthy and curious minds and sound bodies.

Again, I would like to thank Mr. FORD, Mr. KILDEE, and Mr. GOODLING for their work on my amendment and I urge adoption of the en bloc amendments.

Mr. KILDEE. Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN. The question is on the amendments en bloc offered by the gentleman from Michigan [Mr. KILDEE].

The amendments en bloc were agreed to.

□ 1210

The CHAIRMAN. It is now in order to consider amendment No. 7 printed in the House Report 102–838.

AMENDMENT IN THE NATURE OF A SUBSTITUTE OFFERED BY MR. ARMEY

Mr. ARMEY. Mr. Chairman, I offer an amendment in the nature of a substitute.

The CHAIRMAN. The clerk will designate the amendment in the nature of a substitute.

The text of the amendment in the nature of a substitute is as follows:

Amendment in the nature of a substitute offered by Mr. ARMEY:

Strike all after the enacting clause and insert the following:

SECTION 1. NEIGHBORHOOD SCHOOLS IMPROVEMENT.

The Elementary and Secondary Education Act of 1965 (20 U.S.C. 2701 et seq.) is amended—

(1) by redesignating title X as title IX;

(2) by redesignating sections 8001 through 8005 as 9001 through 9005; and

(3) by inserting after title VII the following:

"TITLE VIII—NEIGHBORHOOD SCHOOLS IMPROVEMENT

"SEC. 8001. SHORT TITLE.

"This title may be cited as the 'Neighborhood Schools Improvement Act'.

"SEC. 8002. CONGRESSIONAL FINDINGS.

"The Congress finds that—

"(1) all students can learn and must realize their potential if the United States is to prosper;

"(2) the reforms in education of the last 15 years have achieved good results, but these efforts often have been limited to a few schools or to a single part of the educational system;

"(3) additional pilot projects will have the same limited effect as previous reforms and isolated changes in policy will most likely have minimal impact;

"(4) strategies must be developed by States and communities to support the revitalization of all local schools by fundamentally changing the entire system of education through comprehensive, coherent, and coordinated improvement;

"(5) parents, teachers and other local educators, and community leaders must be involved in developing system-wide reform strategies that reflect the needs of their individual communities;

"(6) States and local educational agencies, working together, must immediately set about developing and implementing such system-wide reform strategies if the Nation is to educate all children to meet their full potential and achieve national goals;

"(7) increasing funding for existing Federal education programs at levels that will enable them to fulfill their mission is a critical part of assisting States and local educational agencies in their school improvement efforts; and

"(8) additional Federal funds should be targeted to support State and local initiatives and to leverage State and local resources for designing and implementing system-wide reform plans.

"SEC. 8003. PURPOSE.

"It is the purpose of this title to raise the quality of education for all students by supporting a 10-year broad based public effort to promote coherent and coordinated changes in the system of education throughout the Nation at the State and local level without jeopardizing funding for existing Federal education programs.

"SEC. 8004. PROGRAM AUTHORIZED.

"The Secretary is authorized, in accordance with the provisions of this title, to make grants to State educational agencies to enable States and local educational agencies to reform and improve the quality of education throughout the Nation. Such grants shall be used to—

"(1) develop innovative educational reform plans, which include State achievement goals, a means for developing or adopting high quality, challenging curricular frameworks and coordinated curricular materials, professional development strategies, and assessment instruments; and

"(2) implement reforms and plans to improve the education system at the State and local levels.

"SEC. 8005. APPLICATION.

"(a) IN GENERAL.—If a State desires to receive assistance under this title, the State educational agency shall submit an application to the Secretary at such time, in such manner, and accompanied by such additional information as the Secretary may reasonably require. Such application shall cover a 5-year period.

"(b) CONSIDERATION OF APPLICATIONS.—Each such application shall—

"(1) contain satisfactory evidence that the State educational agency has or will have authority, by legislation if necessary, to implement the plan required under section 8006;

"(2) provide an assurance that the State has a strategy for ensuring broad participation in the planning process, including parents, students, teachers, principals, superintendents, local school board members, representatives of the employment and training network, the deans of colleges of education, representatives of community-based organizations, testing and curriculum experts, the director of the State office responsible for teacher certification, and the director of the State human services agency, to establish the goals and to refine them in the future, as well as participate in the development of all other components of the plan;

"(3) provide an assurance that the State will notify the public (including individuals with limited English proficiency), through print and electronic media and the local educational agency through actual notice—

"(A) that the State has made application for funds under this title;

"(B) of the purposes for which the funds will be used; and

"(C) that the State is developing a plan under section 8006;

"(4) provide an assurance that all students will have equal access to the curricular frameworks, high quality curricular materials, and well-qualified teachers;

"(5) describe actions taken and resources identified or committed to meet the requirements of this title;

"(6) provide an assurance that the applicant will prepare and submit to the Secretary, annual evaluations of and reports concerning the State program; and

"(7) provide an assurance that the State will carry out the provisions of section 8006.

"(c) APPROVAL.—The Secretary shall approve an application and any amendment to the application if the application or the amendment to such application meets the requirements of this section and is of sufficient quality to effect substantial reform of elementary and secondary education in the State. The Secretary shall not finally disapprove an application or an amendment to such application except after giving reasonable notice, technical assistance, and an opportunity for a hearing.

"(d) REAPPLICATION.—(1) A State educational agency may apply for assistance for a second 5-year period and such application shall be approved by the Secretary if the State—

"(A) has met all of its reporting requirements; and

"(B) demonstrates that it has made reasonable progress in carrying out its plan.

"(2) The Secretary shall not finally disapprove an application or an amendment to such application except after giving reasonable notice, technical assistance, and an opportunity for a hearing.

"SEC. 8006. DEVELOPMENT AND APPROVAL OF STATE PLAN.

"(a) ESTABLISHMENT OF PANEL.—Each State program assisted under this title shall establish a panel to develop a statewide reform plan. Such panel shall consist of—

"(1) the chief executive of the State (or designee);

"(2) the presiding officers and the minority leaders of the State legislature (or designees);

"(3) the chief State school officer;

"(4) the head of the office that coordinates higher education programs in the State or, if there is no such office, the head of the office designated under section 2008 of the Dwight D. Eisenhower Mathematics and Science Education Act (20 U.S.C. 2988) (or designee); and

"(5) individuals selected by the chief executive of the State, including representatives from the following groups and organizations:

"(A) Teachers.

"(B) School administrators.

"(C) Local school boards.

"(D) Parents.

"(E) Businesses.

"(F) State board of education.

"(G) Students.

"(b) ADDITIONAL MEMBERS.—(1) The first meeting of such panel shall be convened by the chief executive of the State. At such meeting, the panel members designated and nominated in subsection (a) may select additional panel members, including the chairpersons of the State legislative committees with jurisdiction over education, individuals reflecting the ethnic and racial diversity of the general population of the State, and (except in the case of a State with a single local educational agency) an individual nominated by representatives of the 5 local educational agencies with the highest number of students eligible for services under part A of chapter 1 of title I of this Act.

"(2) The membership of the panel shall be geographically representative of all areas of the State and shall not exceed 25 in number.

"(3) The chief executive of the State shall serve as the chairperson of the panel and determine a meeting schedule.

"(c) DEVELOPMENT OF STATE PLAN.—(1) The panel shall develop a plan that—

"(A) establishes State goals to maximize achievement for all children in conjunction with national educational goals;

"(B) establishes curricular frameworks in specific subject matter areas that incorporate the goals established under subparagraph (A);

"(C) provides for the development or adoption of instructional materials to assist the implementation of the curricular frameworks;

"(D) allocates resources to implement such a system-wide reform plan;

"(E) provides for the establishment or adoption of a valid, reliable, and fair assessment system based upon the curricular frameworks that is capable of accurately measuring the skills and knowledge required to meet State goals;

"(F) provides for professional development strategies necessary for achieving the State goals;

"(G) establishes a process for reviewing Federal, State, and local laws and regulations and for recommending changes in such laws and regulations to further state-wide reform;

"(H) provides a process for selecting local educational agencies for participation in local system-wide reform efforts;

"(I) provides for the development of objective criteria and measures against which the success of local plans can be evaluated;

"(J) provides for the ongoing evaluation of the effectiveness of the State plan in closing the gap between high and low achieving students to be assessed using achievement and other measures such as attendance, grade retention, and dropout rates;

"(K) provides for the availability of curricular frameworks, curricular materials, and professional development in a manner ensuring equal access by all local educational agencies in the State;

"(L) describes the steps the State educational agency shall take to ensure that successful programs and practices supported by subgrants awarded to local educational agencies under this title shall be disseminated to other local educational agencies in the State;

"(M) provides for the development of an adequate research, training, and evaluation capacity within the State to further the purposes of this title; and

"(N) describes methods of coordinating health and social services with education through State interagency cooperation and agreements.

"(2) In developing the plan, the panel shall—

"(A) emphasize outcome measures rather than prescribing how the State and local educational agencies should achieve such outcomes;

"(B) review recent innovations by other States and by national professional subject matter organizations in educational goals, curricula, and assessment nationally;

"(C) review existing Federal education programs and how they can contribute to the State plan; and

"(D) ensure broad-based participation through regular notice and dissemination of information to the public (including individuals with limited English proficiency) using print and electronic media.

"(3) Following the development of the plan, the panel shall seek public comment by—

"(A) publishing the plan with a comment period of at least 60 days, or

"(B) notifying the public through electronic and print media and conducting regional hearings.

After providing the public with an opportunity to comment on the plan, the panel shall consider the public comments and make appropriate changes.

"(4) The plan shall be submitted to the State for review and approval by the State educational agency, except that any changes to such plan shall be made with the concurrence of the panel. Prior to implementing the plan, the State educational agency shall submit such plan to the Secretary for approval. In the event that the State has previously accomplished any of the reform activities required under this title in a specific subject area or set of grade levels, the State is not required to include them in the plan but shall include a request for a waiver, including a description of such accomplishments.

"(5)(A) The Secretary shall approve a State's plan if such plan—

"(i) meets the requirements of this section; and

"(ii) provides evidence that the State has, or will have, the resources necessary to carry it out.

"(B) The Secretary shall not finally disapprove a plan or an amendment to such plan except after giving reasonable notice, technical assistance, and an opportunity for a hearing.

"(d) REVIEW OF STATE PLAN.—The panel and the State educational agency shall review on an ongoing basis, the implementation of the State plan for the period during which the State receives funding under this title. The results of such review shall be prepared in writing by the panel and included by the State in its annual report to the Secretary under section 8013(a).

"SEC. 8007. STATE USES OF FUNDS.

"(a) USES OF FUNDS.—Funds allotted by the Secretary under section 8011(a) and State and private funds contributed to make up the total cost of a State program as provided in section 8011(b) shall be used by a State with an approved application for the following purposes—

"(1) development and implementation of the State plan, including the establishment of State goals, curricular frameworks, and assessment systems;

"(2) activities of the panel (including the travel expenses of the members of such panel);

"(3) subgrants to local educational agencies;

"(4) technical assistance (including dissemination of information) to local educational agencies to assist in developing and carrying out their plans; and

"(5) evaluation, reporting, and data collection.

"(b) LOCAL EDUCATIONAL AGENCIES.—In the first year that a State receives an allotment under this title, the State educational agency may make subgrants for the purpose of developing local plans as provided in section 8008 consistent with section 8006(c)(1)(H). In the second year, and in each succeeding year, from not less than 75 percent of the total cost of a State's program, the State educational agency shall make subgrants to local educational agencies which shall include—

"(1) at least one local educational agency in each congressional district shall receive a subgrant; and

"(2) the local educational agency with the greatest number of disadvantaged children in the State shall receive a subgrant.

"SEC. 8008. DEVELOPMENT AND APPROVAL OF LOCAL PLANS.

"As described in the State reform plan, and based upon the recommendations of the panel established under section 8006, the State shall make subgrants to local educational agencies based upon a locally developed plan which—

"(1) describes the process used to ensure broad-based community participation in the development of the local plan;

"(2) provides assurance that the local educational agency shall provide for an ongoing evaluation of the effectiveness of the plan in meeting State and local goals, and that it will annually review its local plan and make changes where needed;

"(3) proposes district-wide reform which includes—

"(A) the development of a curriculum to implement the State's frameworks;

"(B) the setting of local goals;

"(C) the identification or development of instructional materials;

"(D) the provision of teacher and administrator training; and

"(E) the identification of assessment instruments to measure progress toward meeting State and local goals."

"SEC. 8009. LOCAL USES OF FUNDS.

"A local educational agency which receives a subgrant under this title shall use the funds for the purpose of district-wide reform, consistent with the State and local plans. Authorized activities may include—

"(1) New American Schools which reflect the best available knowledge regarding teaching and learning, which use the highest quality instructional materials and technologies, and which are designed to meet national, State, and local educational goals as well as the particular needs of their students and communities;

"(2) systems such as merit schools which reward schools with students who, as a group, demonstrate improved performance on curriculum related outcome measures that assess only basic cognitive skills accepted by States or developed in the State assessment process;

"(3) choice programs which permit parents to select the public, private, or parochial school that their children will attend; and

"(4) site-based management involving teachers, professional staff, and parents and emphasizing alternative certification to permit maximum decisionmaking at the individual school level;

"SEC. 8010. AUTHORIZATION OF APPROPRIATIONS.

"For the purpose of carrying out this title, there are authorized to be appropriated $700,000,000 for the fiscal year 1992, and such sums as may be necessary for the fiscal years 1993 through 2001.

"SEC. 8011. ALLOTMENT OF FUNDS.

"(a) TO STATES.—(1) From funds appropriated under section 8010, the Secretary shall allot to the Secretary of the Interior for each fiscal year an amount equal to ¼ of 1 percent of the funds appropriated, not to exceed $2,000,000 in any fiscal year, to benefit Indian students enrolled in schools funded by the Department of the Interior for Indian students. The provisions of subsection (b) of this section shall not apply to payments made under this paragraph.

"(2) From the remaining amount appropriated under section 8010, the Secretary shall make annual grants to States with approved applications based on a competitive formula established by the Department of Education.

"(b) MATCHING REQUIREMENT.—(1) The Federal share under this title may not exceed—

"(A) 100 percent of the total cost of a program for the first year for which a State receives funds under this title;

"(B) 85 percent of the total cost of a program for the second year for which a State receives funds under this title;

"(C) 60 percent of the total cost of a program for the third year for which a State receives funds under this title;

"(D) 45 percent of the total cost of a program for the fourth year for which a State receives funds under this title; and

"(E) 33 percent of the total cost of a program for the fifth and any succeeding year for which a State receives funds under this title.

"(2) The remaining cost of a program that receives assistance under this title shall be paid by the State from State funds and may include contributions from the private sector.

"(3) The share of payments from sources other than funds appropriated under this title may be in cash or in kind fairly evaluated.

"(4) The requirements of this subsection shall not apply to the Virgin Islands, the Commonwealth of Puerto Rico, or Pacific outlying areas.

"(c) MAINTENANCE OF EFFORT.—A State is entitled to receive its full allotment of funds under this section for any fiscal year if the Secretary finds that either the combined fiscal effort per student or the aggregate expenditures within the State with respect to the provision of free public education for the preceding fiscal year was not less than 90 percent of such combined fiscal effort or aggregate expenditures for the second preceding fiscal year.

"(d) ADMINISTRATIVE COSTS.—From its annual allotment, a State may reserve for administration (not to include the activities of the panel) an amount not to exceed 4 percent or $250,000, whichever is greater.

"(e) ASSURANCES AND TERMS.—(1) The funds allotted to the Secretary of the Interior under subsection (a)(1) shall be made in a payment which shall be pursuant to an agreement between the Secretary and the Secretary of the Interior containing such assurances and terms as the Secretary determines will best achieve the purposes of this title. The agreement shall contain an assurance that—

"(A) a panel, as set forth in paragraph (2) of this subsection, shall be established;

"(B) a plan as required in section 8006 shall be developed by such panel; and

"(C) the provisions and activities required under sections 8006 and 8007 shall be carried out in the same time frames stipulated for the States in those sections, provided that the term 'local educational agencies' shall be interpreted to mean 'schools funded by the Bureau of Indian Affairs'.

"(2) To carry out the provisions of this title, and to develop the plan required under the agreement with the Secretary required in paragraph (1), the Secretary of the Interior shall establish a panel coordinated by the Assistant Secretary of the Interior for Indian Affairs to develop a system-wide reform plan. Such panel shall consist of—

"(A) the Assistant Secretary of the Interior for Indian Affairs (or designee);

"(B) the chairpersons and ranking minority members of the Committee on Education and Labor of the House of Representatives and the Select Committee on Indian Affairs of the Senate (or their designees);

"(C) the Director of the Office of the Indian Education Programs of the bureau of Indian Affairs and such heads of divisions in such office as the Director shall designate;

"(D) a representative nominated by each of the following—

"(i) the organization representing the majority of teachers and professional personnel in Bureau-operated schools;

"(ii) the organization representing the majority of nonteaching personnel in Bureau-operated schools, if not the same organization as in clause (i);

"(iii) school administrators of Bureau-operated schools;

"(iv) education line officers located in Bureau area or agency offices serving elementary or secondary programs;

"(v) the organization representing the majority of Bureau-funded contract or grants schools not serving students on the Navajo reservation;

"(vi) the organization representing the majority of Bureau-funded contract grants schools serving students on the Navajo reservation;

"(vii) the organization representing the school boards required in Bureau-operated schools, not serving students on the Navajo reservation; and

"(viii) the organization representing the school boards required in Bureau-operated schools, serving students on the Navajo reservation.

In addition, the members of the panel stipulated above shall designate for full membership 3 tribal chairmen (or designees) or representatives of 3 national organizations which primarily represent national Indian education concerns, or a combination of these 2 classes, provided that the National Advisory council on Indian Education, established under the Indian Education Act of 1972, Public Law 92-318 (as amended), shall not be included as an organization for consideration under this provision.

"(f) SPECIAL PROVISION.—Not less than 25 percent of the amounts made available to local educational agencies under this title shall be used for choice programs.

"SEC. 8012. AVAILABILITY OF INFORMATION AND TRAINING.

"(a) INFORMATION AND TRAINING.—Proportionate to the number of children in a State or in a local educational agency who are enrolled in private elementary or secondary schools—

"(1) a State educational agency or local educational agency which uses funds under this title to develop goals, curricular frameworks, curricular materials, and assessments shall, upon request, make information related to such goals, frameworks, materials,and assessments available to private schools; and

"(2) a State educational agency or local educational agency which uses funds under this title for teacher and administrator training shall provide in its plan for the training of teachers and administrators of private schools located in the geographical area served by such agency.

"(b) WAIVER.—If, by reason of any provisions of law, a State or local educational agency is prohibited from providing for the equitable participation of teachers and administrators from private schools in training programs assisted with Federal funds provided under this title, or if the Secretary determines that a State or local educational agency has substantially failed or is unwilling to provide for such participation, the Secretary shall waive such requirements and shall arrange for the provision of training consistent with State goals and curricular frameworks for such teachers and administrators. Such waivers shall be subject to consultation, withholding, notice, and judicial review in accordance with section 1017 of this Act.

"SEC. 8013. ANNUAL PROGRESS REPORTS: TECHNICAL ASSISTANCE.

"A State which receives funds under this title shall annually report to the Secretary—

"(1) regarding such State's progress in meeting its goals and plan;

"(2) describing proposed activities for the succeeding year; and

"(3) describing Federal regulations which may impede reform activities under this title as described in local plans approved by the State.

"SEC. 8014. REPORT TO CONGRESS.

"The Secretary shall submit annually to the chairperson of the Committee on Education and Labor of the House of Representatives and the Committee on Labor and Human Resources of the Senate a report that contains—

"(1) a description of the progress that States receiving funds under this title have made in developing and implementing their plans;

"(2) information from State and local reports regarding requirements in Federal law or regulation which have been identified by States and local educational agencies as impeding the system-wide reform schools under this title; and

"(3) a list by State of average per pupil expenditures reflecting the most recent data reported under section 8013(b) and reviewed under section 8013(d).

"SEC. 8015. GENERAL PROVISIONS.

"Nothing in this title shall—

"(1) supersede State law;

"(2) be construed to exempt a State or local educational agency that receives funds under this title from the requirements of subsections (a) or (b) of section 439 of the General Education Provisions Act (20 U.S.C. 1232h); or

"(3) be construed to authorize any department, agency, officer, or employee of the Federal Government to—

"(A) exercise any control over the curriculum, program of instruction, administration or personnel of any educational institution or school system; or

"(B) prescribe the use of a particular examination or standards.

"SEC. 8016. DEFINITIONS.

"For purposes of this title:

"(1) The term 'assessment system' means a system for measuring the abilities and academic achievement of students that is based upon a set of curricular frameworks and the expected outcomes embodied therein.

"(2) The term 'curricular framework' means a description, in a particular subject area, of the knowledge and skills children should acquire at each grade level.

"(3) The term 'Pacific outlying area' means American Samoa, Guam, the Commonwealth of the Northern Mariana Islands, and the Republic of Palau (until such time as the compact of Free Association is ratified).".

The CHAIRMAN. Pursuant to the order of the House of today, the gentleman from Texas [Mr. ARMEY] will be recognized for 20 minutes, and a Member opposed will be recognized for 20 minutes. Is the gentleman from Michigan [Mr. KILDEE] opposed to the amendment?

Mr. KILDEE. Mr. Chairman, I am opposed to the amendment.

The CHAIRMAN. Twenty minutes will be allocated to the gentleman from Michigan [Mr. KILDEE].

The gentleman from Texas [Mr. ARMEY] is recognized for 20 minutes.

Mr. ARMEY. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, as I said earlier, this bill under consideration today is not the President's bill. It has only a vague similarity to the President's bill, and that similarity primarily is in the fact that it is spending, once again, the taxpayers' money.

I am trying to offer an amendment in the nature of a substitute that reintroduces the President's bill, America 2000, which was first introduced in Congress 466 days ago.

It is a shame that in considering this subject of education that the President's bill, the President's work, and the output of the Governors' conference was given such narrow and such limited consideration. In fact, I think the chairman of the committee confessed to killing the bill because he was irritated by something the administration was saying.

What I am doing in my amendment in the nature of a substitute is trying again to wed accountability and authority. The problem we have in education today is there is not enough of a wedding between accountability and authority. We as parents do not know who is responsible. We only know that the results are not satisfying to us.

So I would accept the proposition of a local panel that will determine innovative ways in which they might spend this money in order to improve education in their local community. My amendment focuses on four options by which that innovation might take place.

The controversial option and the one that so offends the National Education Association is the option for choice. Nobody is mandated by my amendment, as nobody was mandated in America 2000, to accept choice as one of those four options. But they have the

right in this local panel to put together a choice option.

Those choice options will include first and foremost choice among alternative public schools. Public schools will be first and foremost the primary benefactors of choice, because competition among public schools will only make them better.

So choice does not threaten the quality of public schools. It offers us an opportunity to build in incentives to improve public schools, and they would enjoy the greatest improvement.

But also that local panel might include, if it chooses to do so, and it is not required to do so, private schools, and, yes, even parochial schools.

Then we have the other innovations that were in America 2000 such as new American schools and such as alternative certification for teachers. That is to say that an individual that happens to be a competent, able mathematician might be considered qualified to teach mathematics to children irrespective of formal education requirements in education courses mandated by the education establishment.

It also allows for the setting of national standards in testing.

It also says that once the local community panel has put together their plan for improving their schools, that they can make application for this fund through a Governor's commission that has the Governor in charge of the commission. This is substantially different from the bill we are looking at today where the Governor is merely a member of the committee with no more standing than the student representative.

Why do I insist the Governor should be in charge of the commission? Because the Governor will be held accountable by the people in his State for the success or failure of the schools, and therefore he should have the authority to sit and preside over this panel asserting the power of his office to the end of improving schools.

Subsequently, if the Governor's panel accountable to the people, accepts the plan from the local communities, they may then pass it up to the Secretary of Education. Again the person who will be held accountable is given the authority to accept or reject the plan.

The only requirement I have is that as we implement the plan, 25 percent of the funds should be made available for choice. Those school districts can decide among them who would like to participate with choice as their avenue for participation.

This substitute is supported by: Coalition for America, the Family Research Council, Concerned Women of America, Citizens for Education Freedom, and the Traditional Values Coalition.

Mr. Chairman, I reserve the balance of my time.

The CHAIRMAN pro tempore (Ms. SLAUGHTER). The gentleman from Michigan [Mr. KILDEE] is recognized for 20 minutes.

Mr. KILDEE. Madam Chairman, I yield myself such time as I may consume.

Madam Chairman, I rise in opposition to the amendment.

This amendment is very similar in effect to the one that the committee rejected overwhelmingly during the consideration of H.R. 4323.

It would give the Secretary too much influence over the content of State plans by authorizing grants on a competitive basis.

Finally, it mandates that the Governor coordinate the establishment of the State reform panel, including the direct appointment of many of its members.

The purpose of the State panels is to bring new players into the development of the statewide reform plans to work with State and local educators—not to enhance the role of one of these authorities over the others.

In contrast, the committee bill allocates grants to the States according to a formula.

The Armey amendment would restrict local uses of funds to America 2000 activities.

This would greatly limit the discretion of local education authorities to decide how best to use funding provided under the bill, and would represent an inappropriate degree of Federal direction over the content of local educational reform.

I reserve the balance of my time.

Mr. ARMEY. Madam Chairman, I yield myself 2 minutes.

Madam Chairman, one of the problems we have so often is we see the malfeasance of the Government and the institutions of our Government is that we have purposely designed its institutional structure in such a way as to separate authority from responsibility and accountability. That, of course, shows up in this incredible budget deficit that we experience.

Congress has the authority to spend all the money; the President is left with ceremonial trappings and accountability. Therefore we have the irresponsibility that gives us these deficits that go on forever.

We have the same problem in education. My amendment says if you are going to hold somebody accountable, and who better than an elected official or the Secretary of Education, then give them the authority to determine what will be the product by which they will be held accountable.

That bothers the Democrats because they cannot stand a wedding of authority and accountability, and they cannot stand the thought that a Republican, the Secretary of Education or a Governor, might have his hand on an educational lever.

□ 1220

Let me also point out, Madam Chairman, that this Nation spends over $330 billion on public education, most of it, thank God, spent at the local level and at the State level. But some $40 billion is spent at the Federal level. And this bill has jurisdiction over $700 million for specific projects.

I hardly say that if we give the Secretary of Education authority under this bill that he is, therefore, going to be concluded to have had control of the Nation's entire education system. That is pure rubbish.

Mr. KILDEE. Madam Chairman, I yield 2 minutes to the gentleman from Wisconsin [Mr. GUNDERSON], a great friend of education.

Mr. GUNDERSON. Madam Chairman, I would like to, I guess, address my comments at this time to my Republican colleagues to make sure they all understand that the amendment offered by the gentleman from Texas [Mr. ARMEY] is not the original America 2000 proposal advocated by the administration which made choice an option. It is certainly not the so-called Sununu agreement that allowed choice to be an option of the local education agency.

This is a mandate that 25 percent of all educational reform or America 2000 funds must go for school choice, private and religious school choice. I happen to think that is wrong.

The first reason I think that is wrong is because choice for the sake of choice with no regard to quality is a mistaken premise upon which we should not build any Nation's education reform proposal. Second, I think it is important to understand that when we have kind of focus on choice, we destroy the comprehensive integrity of the America 2000 educational reform initiative.

Third, choice ought to be an option, not a mandate or a goal in itself. Fourth, choice, as advocated by this particular provision, simply does not work in rural America. It may work in a few of our inner-city areas, but it does not work in rural America. Fifth, choice, which goes beyond public and private schools to include religious schools, I have to tell my colleagues, raises serious constitutional questions.

Finally, choice which is directed at all students, regardless of income, brings into serious question a priority of where our limited Federal funds ought to go.

That is what I really think we ought to look at here today. If we are for the concept of choice, I think we ought to understand that we today are looking at a chapter 1 program that is $6.7 billion short of full funding. We are looking at a chapter 2 program, a block grant program that is $240 million short, and we are looking at a Head Start Program that is $5.2 billion short, a $12 billion shortfall on those three basic bipartisan commitments to early intervention on behalf of children. And we are going to mandate that 25 percent of any new funds go to choice.

I think it is the wrong time and the wrong mandate.

Mr. KILDEE. Madam Chairman, I yield such time as he may consume to the chairman of the full committee, the gentleman from Michigan [Mr. FORD].

Mr. FORD of Michigan. Madam Chairman, I thank the gentleman for yielding time to me.

What we really ought to know is what the amendment before us is and is not. I would like to talk just briefly about that.

As the gentleman from Wisconsin has just observed, it is not the President's original proposal. It is quite different, indeed.

What it does do that causes us trouble is require the funding of private school choice; not permit, but require that 25 percent of each local grant will be used in private schools as well as public schools.

It says that funds available for school reform would be reduced by $100 million, and the Secretary of Education would be given the board authority to decide whether to fund State or local reform plans and how much funding to allocate.

I would remind the Members of the House that when we have considered in past years elementary and secondary education legislation, one of the most frequent complaints from opponents of that legislation has been, "You people are advocating giving power to somebody in Washington to tell local and State officials that we select to run our schools what to do and how to do it."

We have tried to respond over the years to those critics by staying out of the hair of State and local officials.

I might point out to the gentleman from Texas [Mr. ARMEY] that he is proud of the fact that he gives all 50 of the Governors primary responsibility for education reform. Twenty-eight States, by their constitution, have taken that power away from the Governor and given it to an appointed State board of education to select the chief State school officer. Seven States have an official separate from the Governor but nevertheless appointed by the Governor. Eight States pick the primary education person by a partisan ballot, and five, by a nonpartisan ballot. One of those is California, where it is not infrequent to find the Secretary of Education or a Commissioner of Education and the Governor from different political parties.

Now, if we want to go out there and try to tell all of the 50 States that their constitutions are wrong and that we know better in Washington who ought to be running education in their States, we will vote for the gentleman from Texas [Mr. ARMEY], and we will be doing that. And we will see the States, I am sure, react very strongly to that.

The gentleman from Texas [Mr. ARMEY] makes no distinction between profit-making private schools and private nonprofit schools, which most of us in the Midwest are familiar with, which tend to be church-operated schools, Catholic, Baptist, Lutheran, Hebrew day schools, various church-related groups that have for many years operated an alternative form of education for the public school system but nevertheless meet all of their requirements for certification of teachers and other things that the public schools meet.

The gentleman from Texas [Mr. ARMEY] will open that up further for for-profit private schools. The traditional way of defining private schools for educational funding was private nonprofit schools. Maybe that is a part of the reason that I have this interesting letter, in March, from the U.S. Catholic Conference. The U.S. Catholic Conference does not support the Armey amendment or any amendment like it.

Back in March, when we were still actively debating this issue in the committee, I received, from Sister Lourdes Sheehan, secretary of education of the U.S. Catholic Conference, a letter which says, in part:

> We also recognize that this issue unfortunately has been pushed to the forefront of the domestic public policy agenda in the highly partisan context of a Presidential election year. Because of this context a balanced debate on the merits of the issue necessarily has been overshadowed by larger political considerations. Given these circumstances we do not believe that this is the most opportune time for us to continue to participate in any further congressional debate on the issue of school choice.

The U.S. Catholic Conference told us that this well was poisoned after the Senate considered the bill, and why?

The gentleman from Wisconsin mentioned the so-called Sununu compromise that I attempted to negotiate through the ranking Republican on my committee, and we thought we had an understanding that was very similar to the language in the gentleman's substitute that he offers today.

□ 1230

We interpreted that language to leave the question of whether they were going to share their scarce school dollars with private schools to local and State education authorities.

However, after the defeat of the choice amendment on the floor in the Senate, spokespersons for the administration characterized the bill in its form then in our committee as the Ford bill and said that, "The Ford bill did in fact permit or require public money to be spent in private church-related schools."

I have never supported the proposition of public money being used in private church-related schools that have as a primary function the teaching of any particular religion. If I had supported that, the Court has said over and over again during my adult lifetime that it is wrong because it violates the separation of powers, provisions of the first-amendment of the Constitution.

I think we have done very well by these private schools over the years by keeping them out of the courts. The interesting result we would get if we adopted the amendment, the substitute of the gentleman from Texas [Mr. ARMEY], is that the courts will not let the church-related schools get any of this money. If they do not get it, and 25 percent has to be spent on private schools, who will get it? I will give the Members a name. If they are not familiar with them, they are going to hear a lot more about them: The Edison project of Whittle Communications, a company riddled with former Reagan administration and Bush administration Department of Education officials who are going to operate a for-profit elementary and high school system in this country, and some of the material they are putting out to encourage investors suggests that they expect a profit of 15 percent on their investment.

Who will get the money that the gentleman from Texas is mandating be set aside if the courts, which have spoken very recently through the gentlewoman on the Court, and very emphatically, saying it cannot use a penny of this with a church-related school; if not them, who? It will be the private nonchurch-related schools. In the East there are several of those that are nonsectarian. They are private but they are nonprofit as well.

For the first time we see coming on the scene people who want to get into the business of teaching elementary and high school children, not because they want to give them religious guidance or values training, but because they want to make a profit, and they are promising prospective investors that there is a fat cow to be slaughtered out there, and they know how to do it.

The gentleman's amendment, I suggest, just coincidentally came on the scene at the same time that all these representatives were being made by Whittle and Associates for what they were going to do with their new profit-making school and venture. If the Members want that kind of competition to the public schools, I suggest that the Members are very badly misled on what the future of this country ought to be and what it in all likelihood will be.

Mr. Chairman, I include for the RECORD the letter from Sister Lourdes Sheehan, R.S.M., and other materials referred to:

U.S. CATHOLIC CONFERENCE,
DEPARTMENT OF EDUCATION,
Washington, DC, March 12, 1992.

Hon. WILLIAM D. FORD,
Chairman, House Committee on Education and Labor, House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN: I am writing you concerning legislation pending in the House of Representatives dealing with the reform and improvement of elementary and secondary education. It is our understanding that the bill which has been approved and reported out of the Education and Labor Committee is being reconsidered by your Committee before being taken up by the full House. We also understand that the new version of this legislation will not include any explicit provisions addressing the use of newly authorized federal funds for "school choice" programs.

We would like to share our views with you about certain aspects of this legislation. As you know, the Catholic school community has taken an active interest in the issue of educational choice for all parents particularly as it arose in the recent Senate debate on S. 2. Our community has a long history of advocating for the primacy of parental rights and choice in determining the most appropriate education for their children. As a major partner in American education, we also have a keen interest in current efforts to improve and reform all of education in our nation. We believe that Catholic and other nonpublic schools offer a demonstrated record of success in providing effective alternative methods of educating significant numbers of children throughout our nation's history. This statement is especially true with respect to the poor and disadvantaged in the urban and rural areas of our nation.

It is because of this tradition that we believe that enhanced parental choice is one major factor in increasing accountability and the improvement and reform of all schools. Consequently, we were pleased that you, as Chairman of the House Committee on Education and Labor agreed to authorize the use of funds for this purpose in your original bill, H.R. 3320. We know you accepted this approach because of your belief that these kinds of decisions should be left to state and local public education authorities.

We also recognize that this issue unfortunately has been pushed to the forefront of the domestic public policy agenda in the highly partisan context of a Presidential election year. Because of this context a balanced debate on the merits of the issue necessarily has been overshadowed by larger political considerations. Given these circumstances we do not believe that this is the most opportune time for us to continue to participate in any further congressional debate on the issue of school choice.

We thought you would appreciate knowing our views on this important matter at this point of the Congressional debate. We look forward to continuing our discussions with you and the members of your committee on further refining and improving the reform legislation as well as the larger task of the reauthorization of the Elementary and Secondary Act in the next Congress.

Wishing you the best in your continuing leadership role in education policy.

Sincerely,
SISTER LOURDES SHEEHAN, RSM,
Secretary of Education.

STATE EDUCATION GOVERNANCE—METHOD OF SELECTION OF CHIEF STATE SCHOOL OFFICER

Twenty-eight States (28) appointed by State board of education: Alabama, Alaska, Arkansas, Colorado, Connecticut, Delaware, Hawaii, Illinois, Kansas, Kentucky, Louisiana, Maryland, Massachusetts, Michigan, Mississippi, Missouri, Nebraska, Nevada, New Hampshire, New Mexico, New York, Ohio, Rhode Island, South Dakota, Utah, Vermont, Texas, West Virginia.

Seven (7) appointed by the Governor: Iowa, Maine, Minnesota, New Jersey, Pennsylvania, Tennessee, Virginia.

Nine (9) by partisan ballot: Arizona, Georgia, Indiana, Montana, North Carolina, Oklahoma, South Carolina, Wyoming, Florida.

Six (6) by non-partisan ballot: California, North Dakota, Oregon, Washington, Wisconsin, Idaho.

OPPOSE ARMEY SUBSTITUTE TO H.R. 4323

Private school choice must be funded with at least 25 percent of each local grant.

Funds available for school reform would be reduced by $100 million.

The Secretary of Education is given the broad authority to decide whether to fund State or local reform plans and how much funding to allocate.

Governors are put in charge of school reform at the State level (including the selection of many of the members of the reform panel) if the Secretary decides to fund a State.

Local school districts are limited to only four authorized uses of funds and are required to fund private schools.

There is no authority—even on a limited demonstration basis—to ease federal rules and regulations.

There is no authorization for the National Education Goals Panel or the development of voluntary national education standards.

Mr. ARMEY. Mr. Chairman, I yield 2 minutes to my good friend, the gentleman from Arizona [Mr. KOLBE].

Mr. KOLBE. Mr. Chairman, I urge my colleagues to vote for real reform in education by supporting the amendment offered by my colleague, Mr. ARMEY.

We keep hearing about change, that it is time for change. I want to remind my colleagues that the Bush administration and many on this side of the aisle have been proposing exactly that sort of change for quite a while now. Today, we have the perfect opportunity. We have the vehicle before us to signal to the Nation that the Congress means business, that we won't tolerate doing more of what didn't work in the past. We can prove to the Nation that this body is not afraid of innovation, that we do not always fight change.

This is our chance to demonstrate that Congress is serious about reforming the schools of our Nation. Sure, we can tinker in small ways with our schools and hope it works out. But all the scholarly studies—and the American people—tell us we need to get serious about major reforms in our schools.

We are faced with two alternatives: A program for funding the status quo, H.R. 4323, or a substitute that would launch our schools in a new direction. When it comes to our education bureaucracy, it surely is time for a change, We can support serious education improvement by adopting the Armey amendment.

Lately, we have heard much talk of investment in education. That's good. But investors use thorough and precise techniques to evaluate an investment opportunity before committing even a single dime. That is what investment involves: An objective analysis of each alternative, a weighing of the benefits and costs.

H.R. 4323 as it stands right now simply doesn't make the cut. Pouring additional funding into educational approaches that have not worked before is not a wise investment.

But the Armey amendment would produce genuine reform by adopting some new approaches. It will focus reform on site-based management, alternative certification, merit testing, and New American Schools. The amendment will involve the State's Governor in his or her proper constitutional role in education matters. And it will enable the Secretary of Education to ensure that reform plans stay focused on meaningful activities.

The Armey amendment will put the power over a child's education where it belongs: with the family. Schooling is too important a decision to be left to the accidents of city zones or to the education bureaucracy. Mom and dad should decide what is best for their own children.

This amendment will produce serious change. It will provide freedom and opportunity for parents. We know what kind of things work in education. Now we can stimulate our schools to actually do them.

Mr. KILDEE. Mr. Chairman, I yield 3 minutes to the gentleman from Rhode Island [Mr. REED].

Mr. REED. Mr. Chairman, I rise in opposition to the Armey amendment. We begin this debate today with two very stark realities. First, we are operating in an environment of constrained resources, so we cannot make the old initiatives which perhaps the educational crisis in America cries out for.

Second, we have to understand that educational reform is and should be primarily a local initiative. I believe, though, that looking at the Armey bill, it does not present an agenda for reform. Rather, it is an amalgamation of slogans. The bill restricts possible choice of reform to four very narrow channels, New American Schools.

New American Schools have been debated for months now. To me they are the Potemkin village of educational reform. A very clever prime minister for Catherine the Great, to deceive her into thinking that all things were well, created sham villages and then would parade her by.

In some respects this is what New American Schools are, because they fail to grasp the fact that education in the United States is a system, and improving one school without paying at-

tention to systematic effects will not result in true education reform.

There is discussion of site-based management and alternative certification. Unclear in terms of the concept at this moment, I wonder if it means that principals will no longer have to respond to local school committees. Is that what site-based management means?

Then, of course, there is school choice. School choice in the context of public education is not very novel. Most systems have magnet schools. Most systems offer opportunities for parents to choose to move their children.

What is novel in this approach is that it opens it up to private schools, in effect abandoning public education. We all recognize there is a crisis in public education, but emphasis on choice is essentially not attempting to fix the plane, but just to pass out parachutes, and probably pass out parachutes to those who least need them.

All of these things argue against this bill very strenuously. There are other things that are lacking in this bill. There is no flexibility in Federal regulations. Such a program or pilot program has been proposed in the Kildee bill.

Indeed, we have heard this afternoon discussion time and time again about accountability, "We must have accountability. We must have accountability." Yet the Armey amendment is terribly deficient in setting standards.

Just last week we had the headmaster of the Boston English School, a public school in Boston with low-income students. I asked this gentleman, "What is the one obstacle to successful educational reform that you see from your position in a school, daily coming in contact with students, teachers, and parents?" He said, "A lack of standards." This bill does not attempt to create those standards, so we cannot measure accountability, measure output, measure our success in the educational system.

I oppose this legislation, and urge all to vote against it.

Mr. ARMEY. Mr. Chairman, I yield 2 minutes to my good friend, the gentleman from Texas [Mr. DELAY], who knows very well that there is nothing in my amendment that requires anybody to do choice. It is something we allow to be done.

Mr. DELAY. Mr. Chairman, I just cannot believe that I am hearing on this floor, not only misleading statements, but total disregard for the facts. The gentleman on this side of the aisle, the gentleman from Wisconsin [Mr. GUNDERSON], said that the Armey amendment is not part of America 2000, that it is different. I hold in my hand here a statement that the administration supports the Armey amendment, and that it is critical part of the President's America 2000 strategy. Even if it was not, we are not water boys in this House for the President. We have our own ideas. In fact, I venture to say that the majority of our conference supports the Armey amendment.

□ 1240

Now what are we afraid of, Mr. Chairman, what are we afraid of? We already have educational choice in America. We already have people going and choosing those bad old religious schools, and those evil for-profit schools because they can afford it. But what we are talking about here is allowing education choice for everyone.

Education choice gives families the ability to select the schools their children attend. It allows families to exercise their right to select an education which best suits their needs and lifestyle.

Choice is essential to a democratic society and a free market economy, and conveys an inherent respect for quality and variety. School choice offers the same self-direction, flexibility and responsiveness that choice fosters in our market-driven democracy.

But, as would be true in any democracy or free market society, choice without options is an empty notion. Ideally, parental choice is augmented by a program which allows for variety at the school level, variety that includes private, parochial and public schools, as the Armey amendment would.

Support the Armey amendment.

Mr. Chairman, I rise to support Congressman ARMEY's school choice reform amendment to H.R. 4323, which would tremendously enhance this piece of legislation.

With the Armey amendment, private, parochial, and public schools would be explicitly included as an allowable activity and a minimum earmark of 25 percent of program funds for school choice would be established. Let me explain again what educational choice is and why it is so important to education reform.

Education choice gives families the ability to select the schools their children attend. It allows families to exercise their right to select an education which best suits their needs and lifestyle. Choice is essential to a democratic society and a free market economy, and conveys an inherent respect for quality and variety. School choice offers the same self-direction, flexibility, and responsiveness that choice fosters in our market-driven democracy. But, as would be true in any democracy or free market society, choice without options is an empty notion. Ideally, parental choice is augmented by a program which allows for variety at the school level—variety that includes private, parochial, and public schools, as the Armey amendment would.

The truth is that we have spent increasingly more dollars on education in this country in the last few decades, with very little in the way of student achievement or parental satisfaction to show for it. Educational choice is a catalyst for change. It promotes quality and innovation through competition. It also ensures accountability through increased parental involvement. Its effects are difficult to measure in dollar amounts, but the number of schools and students that attribute educational success to this program continue to grow in number.

Some predict that choice will resegregate schools. I predict just the opposite. Under the current system, schools are set up under a segregated, two-tier system. Affluent families can choose the schools they want by moving to the suburbs or buying a private school education for their children, but low-income families are stuck, often in unsafe schools with drug problems and chronic poor academic scores. The only choice poor children have, in most cases, is to drop out, and many of them do just that: in some schools, the dropout rate of minority children is 50 to 60 percent.

Choice levels the playing field. Choice gives all families, not just the rich, access to quality schools.

So let me summarize now why we need the Armey school choice amendment. No student should be condemned to an inferior education. If schools are not working, and do not appear to be improving, they should be closed. Federal, State, and local governments can no longer spend critical education dollars keeping a failing school afloat. Schools must provide taxpayers with a quality product, or be held accountable for the inferiority of their program. In this way schools will be forced to improve.

The focus of education must be on the child in the classroom. Vote for the Armey amendment, and vote for the future of America's children.

Mr. KILDEE. Mr. Chairman, I yield 3 minutes to the gentlewoman from Hawaii [Mrs. MINK], a member of the committee.

Mrs. MINK. Mr. Chairman, I thank the gentleman for yielding me the time.

Mr. Chairman, I rise in strong opposition to the Armey substitute to H.R. 4323, which mandates 25 percent of the funds in this bill to be used for private school choice programs, including private for-profit schools.

The idea of school choice as a mandatory education reform is a dangerous illusion that diverts public attention away from the real measures needed to improve quality and equity in our public education system, and to encourage transfers out to private schools.

This illusion is a no-cost, no-benefit so-called reform which sacrifices our children who truly need the benefits of substantive education reform in our public school system.

Choice pushes schools to accept only the very best students and boast high test scores and graduation rates, while students in the abandoned urban and rural schools are left to languish as the quality of education continues to deteriorate because of neglect, a decreasing student population, and the loss of Federal funding.

I fail to see how this approach will produce much needed education reform. Under a choice program the good schools will get the better students and the bad schools will get the worst, resulting in the widening of an already

existing gap between the education have and have-nots.

Parents don't want to send their children across town to attend a quality school, they want schools in their own neighborhoods to achieve that same quality. School choice will only serve as another obstacle to achieving this goal.

The problem is not that parents do not have a choice, the problem is that inequities in our education system continue to exist—that the education a student receives in disadvantaged areas is not equivalent to the education available in our affluent suburbs. School choice does nothing to solve the glaring inequities that plague our Nations public schools; it will only exacerbate it.

It does nothing to improve curriculum and teacher training; to increase preschool programs and reduce class size. It does nothing to recruit teachers and expand youth services; to repair buildings and modernize equipment. It does nothing for the despair of children shackled to failing schools because their parents lack the means for transportation or the wherewithal to arrange for better schools for them. And it does not provide any long-term solutions to the problems in our education system.

School choice is nothing more than an attempt to undermine our public education system in the guise of education reform. It is an elitist approach to reform in step with the cynicism of trickle-down economics and other smokescreens to separate the haves from the have-nots.

I urge my colleagues to reject the failed notion of school choice and vote against the Armey substitute.

The CHAIRMAN pro tempore (Mr. HEFNER). The Chair would inform the Members that the gentleman from Texas [Mr. ARMEY] has 8 minutes remaining, and the gentleman from Michigan [Mr. KILDEE] has 1 minute remaining. The gentleman from Michigan has the right to close debate.

Mr. ARMEY. Mr. Chairman, I yield 2 minutes to my good friend, the gentleman from Colorado [Mr. HEFLEY], who knows that with the GI bill, Pell grants and so forth, Federal aid is spent commonly in religious schools, even theology schools.

Mr. HEFLEY. Mr. Chairman, let there be no mistake, the Democratic Party in this body does not believe in true educational reform. After the President compromised with the Democrats to include choice in the Neighborhood Schools Improvement Act, he was stiff-armed by the Democrats who, as always, are beholden to special interests. This time the culprit was school boards from across the country. These board members are so scared of parental involvement that they forced the Democrats on the Education and Labor Committee to remove that horribly offensive word from the bill—"choice." What are they afraid of? Do they think they can't compete? If so, we really are in trouble.

The Neighborhood Schools Improvement Act would authorize the use of Federal funds for everything but choice. Do we really believe that the public school bureaucrats are going to change such a self-preserving system. Education will not change unless we act as leaders and try something innovative and new. This is a concept that should be tried. The educrats won't change without our prodding. The reality of this bill is that the same old bureaucrats are going to pour the same tax dollars into the same old, failed programs.

Mr. Chairman, let's let the record show that the word conservative stands for change on this issue. The Democratic Party stands for the status quo, which is throw more money at a problem, close your eyes, and maybe it will go away.

Mr. Chairman, what is so wrong with allowing parents to make decisions about their childrens' education and not some board member or administrator who supposedly knows best. Usually parents know what is best for their children—let's let them make the decision. But I guess we are just to paternalistic to believe that poor, uneducated, underprivileged parents can make an informed decision about their own children. I urge my colleagues to support the Armey amendment and try school choice.

Isn't it strange that an 18-year-old can choose to go to Notre Dame on a variety of government grants but a 12-year-old can't choose to go to St. Mary's Prep with his parents' tax dollars.

Mr. ARMEY. Mr. Chairman, I yield 2 minutes to the distinguished gentleman from Ohio [Mr. BOEHNER], a member of the committee.

Mr. BOEHNER. Mr. Chairman, I rise today in support of the Armey amendment, because I believe that H.R. 4323, as now drafted, does nothing more than provide additional money to continue already failing education programs, in order for this bill to drive real reform in education, it must be changed.

The Armey amendment is the vehicle that will drive real education reform. It is based on one simple concept—that the people of this country are smart enough to decide how best to educate their children. Congress must recognize that while the Federal Government can provide encouragement, guidance and support to parents and communities, successful innovations and reforms are not driven by Washington, or the State capitols. Rather, they are driven by individual communities, parents in the real world.

The Armey amendment does not ignore parents and communities. In fact, the Armey amendment ensures that they are the vehicles of change. And one of the most important parts of this change is embodied in school choice—the ability of parents to decide where their children can go to school.

School choice has been getting a bum rap from many in this body. Although it is fine for us to debate the merits of school choice, it is not for Congress to decide. It is up to the parents and local communities to decide on the merits of choice. They are the ones who benefit from school choice. They are also the ones who must deal with the consequences of languishing schools and education policies, which are failing their children and communities.

School choice will give parents control of education by forcing schools to compete and improve, or close their doors. Good schools don't have to worry; schools willing and able to improve don't have to worry; only schools that are failing to educate children need to worry. It is time that parents and communities be permitted to improve their schools and close those that aren't educating their children.

Finally, I must point out that the school choice movement is gaining support, in such diverse areas as California, Colorado, Georgia, Indianapolis, Milwaukee, East Harlem, Prince Georges County, and numerous other communities are enacting school choice reforms. So, I ask again: who are we in Congress to say no? Who are we in Congress to say that the States, local communities, and parents should not and cannot have school choice?

Mr. Chairman, the American people are clamoring for real change. They understand that school choice will lead to a real improvement in education. As the great Sam Rayburn once said, "You cannot be a leader, and ask other people to follow you, unless you know how to follow, too."

Mr. Chairman, it is time for Congress to follow the American people for they know which way they are going. This is why I urge my colleagues to vote for the Armey amendment, which represents the new and better direction for American education.

□ 1250

Mr. ARMEY. Mr. Chairman, I yield such time as he may consume to the gentleman from Louisiana [Mr. HOLLOWAY].

Mr. HOLLOWAY. Mr. Chairman, I rise in strong support of the Armey amendment.

Mr. ARMEY. Mr. Chairman, I yield 2 minutes to my good friend, the gentleman from California [Mr. DORNAN].

Mr. DORNAN of California. Mr. Chairman, over the past year, the Democrats have been hammering the Bush administration with claims that it has been negligent toward educating our youth. They complain that we do not spend nearly enough on education.

I ask my colleagues on the other side of the isle, "How much is enough?"

Let's assume that we have an infinite amount of money to spend here in Congress. What if President Bush came to this floor today and handed us a blank check made out to "Education in America" and said we could go ahead and fill it out for any amount. If money is what educates our children, then let's go ahead and fill out that check for whatever amount the Democrats think it will take to make our kids smarter. How much will it take, Mr. Chairman, $2 billion, $200 billion? How about $1 trillion.

Do the Democrats honestly believe that throwing more money into an obviously failed system is going to somehow get kids excited about going to school—about reading and learning and reaching their full potential? Do they honestly believe that this kind of money is somehow going to empower parents and get them involved in their child's education? Do they really believe that money is what will make public schools drug and violence free? And do they really believe that spending all this money is going to somehow make our children smarter?

Mr. Chairman, if there is one word I have heard over and over again during the past few months it is the word "change." Oddly enough, when it comes to education the Democrats are only interested in spending more of the taxpayers money on protecting the status quo. They are not interested in change—they are only interested in feeding an already obese bureaucracy. If they were interested in change they would be willing to give President Bush's America 2000 a fair chance. Instead, it is business as usual.

My colleagues and I still have a chance to prove to the American people that this Congress is serious about improving our Nation's education system. Today we have an opportunity to make a real difference in the way we educate our children by voting in favor of the Armey school choice reform amendment. While H.R. 4323, the Neighborhood Schools Improvement Act, may appear to be a good bill, it is not. It is a weak, watered down version of President Bush's America 2000 legislation. We need Congressman ARMEY's amendment because it strengthens H.R. 4323 by including key provisions of America 2000 such as school choice, high national standards, accountability, and the establishment of new American schools. Please join me in voting for the Armey amendment—it represents true reform and needed change in a system that has failed our children for far too long.

Mr. ARMEY. Mr. Chairman, I yield 1 minute to the gentleman from California [Mr. HERGER], who would wish to rise in behalf of the families of America instead of the unions of America.

Mr. HERGER. Mr. Chairman, I rise in strong support of the Armey amendment, which proposes real reform and choice in education.

H.R. 4323, as currently written, does not allow local communities to consider public, private, and parochial school choice and it limits the role of State Governors and other local officials. Instead, the bill proposes hundreds of millions of dollars for more of the same policies which have contributed to our education crisis in the first place.

Parental choice in education works. That is why 71 percent of all Americans support it.

Across the country, in Milwaukee, Massachusetts, and New Jersey, choice has been successful in schools that had previously been failing miserably.

The Armey amendment takes power out of the hands of the education bureaucrats and puts it in the hands of parents where it belongs. Vote "yes" on the Armey amendment.

Mr. ARMEY. Mr. Chairman, I yield such time as he may consume to the gentleman from Michigan [Mr. HENRY].

Mr. HENRY. Mr. Chairman, I rise in support of the Armey amendment and urge Members not to confuse the message with the messenger.

Mr. ARMEY. Mr. Chairman, I believe I thank the gentleman from Michigan.

I would like to inquire from the other gentleman from Michigan if he has any additional speakers.

The CHAIRMAN pro tempore (Mr. HEFNER). The gentleman from Michigan has the right to close the debate, so the gentleman from Texas can either use his remaining minute or yield it back.

PARLIAMENTARY INQUIRY

Mr. ARMEY. Mr. Chairman, I have a parliamentary inquiry.

The CHAIRMAN pro tempore. The gentleman will state his parliamentary inquiry.

Mr. ARMEY. If I might ask a parliamentary inquiry, I thought it was the rules of the House that I would have the right to close debate.

The CHAIRMAN pro tempore. The manager of the bill has the right to close the debate affecting the committee position on the amendment.

Mr. ARMEY. Not the manager of the amendment?

The CHAIRMAN. The gentleman is exactly right.

Mr. ARMEY. Mr. Chairman, I yield 1 minute, the remainder of my time, to the gentleman from North Carolina [Mr. BALLENGER].

Mr. BALLENGER. Mr. Chairman, I rise in support of the Armey amendment. Our economic system thrives on the principle of competition, when the Government does not stand in the way. Those in business know that if you produce the best product, build the best mousetrap, the world will beat a pathway to your door.

This concept of competition is applicable to education. The best schools have a magnetism that attracts students. The mediocre schools, those that refuse to change, become stagnant and cease to be competitive. Not only will these schools perform a grave disservice to the youth of America, they will eventually cease to exist.

We all know that wealthy Americans can send their children to the best schools available. The poor do not have that opportunity. They are locked into the worst and weakest schools, in spite of the fact that parents long for the ability to choose which school their children will attend.

Choice for everyone is an idea whose time has come. I think all parents would like to have that option, but the educational power structure fights it—why? Because they are afraid of change and want to keep the status quo. Any new ideas might cause trouble to their stale efforts. Our present system is broken and we know it. Choice could create a whole new dimension in education. It has already worked in a few cases. Why not build on these few models and create the new system we need.

Mr. KILDEE. Mr. Chairman, I yield myself 1 minute, the remainder of my time.

Mr. Chairman, I urge the defeat of the Armey amendment.

Mr. Chairman, many provisions of the Armey amendment were already rejected in committee and, further, the Armey amendment does not contain some of the better provisions of both H.R. 4323 and the Goodling substitute.

There is no easing of Federal regulations in the Armey substitute. There is no authorization of the national education goals panel, and there is no development of voluntary standards. The substitute is deficient. I urge its defeat.

The CHAIRMAN pro tempore. The question is on the amendment in the nature of a substitute offered by the gentleman from Texas [Mr. ARMEY].

The question was taken; and the Chairman pro tempore announced that the noes appeared to have it.

RECORDED VOTE

Mr. ARMEY. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 80, noes 328, not voting 26, as follows:

[Roll No. 383]

AYES—80

Allard	Coughlin	Hansen
Allen	Cox (CA)	Hefley
Archer	Crane	Henry
Armey	Dannemeyer	Herger
Baker	DeLay	Holloway
Ballenger	Dickinson	Inhofe
Bliley	Doolittle	Johnson (TX)
Boehner	Dornan (CA)	Kasich
Broomfield	Dreier	Kolbe
Bunning	Duncan	Kyl
Burton	Franks (CT)	Lagomarsino
Callahan	Gilchrest	Lewis (FL)
Campbell (CA)	Goss	Lightfoot
Chandler	Gradison	Lipinski
Clinger	Grandy	Livingston
Coble	Hammerschmidt	Lowery (CA)
Combest	Hancock	McCrery

McEwen
McMillan (NC)
Michel
Miller (OH)
Miller (WA)
Moorhead
Nussle
Oxley
Packard
Paxon
Quillen
Ravenel
Ritter
Rohrabacher
Ros-Lehtinen
Schulze
Shaw
Shuster
Smith (TX)
Spence
Stump
Sundquist
Taylor (NC)
Thomas (CA)
Vander Jagt
Vucanovich
Wolf
Zeliff
Zimmer

NOES—328

Abercrombie
Alexander
Anderson
Andrews (ME)
Andrews (NJ)
Andrews (TX)
Annunzio
Anthony
Applegate
Aspin
Atkins
AuCoin
Bacchus
Barrett
Bateman
Beilenson
Bennett
Bentley
Bereuter
Berman
Bevill
Bilbray
Bilirakis
Blackwell
Boehlert
Bonior
Borski
Boucher
Boxer
Brewster
Brooks
Browder
Brown
Bruce
Bryant
Bustamante
Byron
Camp
Cardin
Carper
Carr
Chapman
Clement
Coleman (MO)
Coleman (TX)
Collins (IL)
Collins (MI)
Condit
Conyers
Cooper
Costello
Cox (IL)
Coyne
Cramer
Darden
Davis
de la Garza
DeLauro
Dellums
Derrick
Dicks
Dingell
Dixon
Donnelly
Dooley
Dorgan (ND)
Downey
Durbin
Dwyer
Early
Eckart
Edwards (CA)
Edwards (OK)
Edwards (TX)
Emerson
Engel
English
Erdreich
Espy
Evans
Ewing
Fascell
Fawell
Fazio
Feighan
Fields
Fish
Foglietta
Ford (MI)
Ford (TN)
Frank (MA)
Frost
Gallegly
Gallo
Gaydos
Gejdenson
Gekas
Gephardt
Geren
Gibbons
Gillmor
Gilman
Glickman
Gonzalez
Goodling
Gordon
Green
Guarini
Gunderson
Hall (OH)
Hall (TX)
Hamilton
Harris
Hastert
Hayes (IL)
Hayes (LA)
Hefner
Hertel
Hoagland
Hobson
Hochbrueckner
Horn
Horton
Houghton
Hoyer
Hubbard
Huckaby
Hughes
Hutto
Jacobs
James
Jefferson
Jenkins
Johnson (CT)
Johnson (SD)
Johnston
Jones (GA)
Jones (NC)
Jontz
Kanjorski
Kaptur
Kennedy
Kennelly
Kildee
Kleczka
Klug
Kolter
Kopetski
Kostmayer
LaFalce
Lancaster
Lantos
LaRocco
Laughlin
Leach
Lehman (CA)
Lehman (FL)
Lent
Levin (MI)
Levine (CA)
Lewis (CA)
Lewis (GA)
Lloyd
Long
Lowey (NY)
Luken
Machtley
Manton
Marlenee
Martin
Martinez
Matsui
Mavroules
Mazzoli
McCandless
McCloskey
McCurdy
McDade
McDermott
McGrath
McHugh
McMillen (MD)
McNulty
Meyers
Mfume
Miller (CA)
Mineta
Mink
Moakley
Molinari
Mollohan
Montgomery
Moody
Moran
Morella
Morrison
Mrazek
Murphy
Murtha
Myers
Nagle
Natcher
Neal (MA)
Neal (NC)
Nichols
Nowak
Oakar
Oberstar
Obey
Olin
Olver
Ortiz
Orton
Owens (NY)
Owens (UT)
Pallone
Panetta
Parker
Pastor
Patterson
Payne (NJ)
Payne (VA)
Pease
Pelosi
Penny
Perkins
Peterson (FL)
Peterson (MN)
Petri
Pickett
Pickle
Porter
Poshard
Price
Pursell
Rahall
Ramstad
Rangel
Ray
Reed
Regula
Rhodes
Richardson
Ridge
Riggs
Rinaldo
Roberts
Roe
Roemer
Rogers
Rose
Rostenkowski
Roth
Roukema
Rowland
Roybal
Russo
Sabo
Sanders
Sangmeister
Santorum
Sarpalius
Savage
Sawyer
Saxton
Schaefer
Scheuer
Schiff
Schroeder
Schumer
Sensenbrenner
Serrano
Sharp
Shays
Sikorski
Sisisky
Skaggs
Skeen
Skelton
Slattery
Slaughter
Smith (FL)
Smith (IA)
Smith (NJ)
Smith (OR)
Snowe
Solarz
Spratt
Stallings
Stark
Stearns
Stenholm
Stokes
Studds
Swett
Swift
Synar
Tallon
Tauzin
Taylor (MS)
Thomas (GA)
Thomas (WY)
Thornton
Torres
Torricelli
Traficant
Unsoeld
Upton
Valentine
Vento
Visclosky
Volkmer
Walsh
Washington
Waters
Waxman
Weldon
Wheat
Whitten
Williams
Wise
Wolpe
Wyden
Wylie
Yates
Yatron
Young (AK)
Young (FL)

NOT VOTING—26

Ackerman
Barnard
Barton
Campbell (CO)
Clay
Cunningham
DeFazio
Dymally
Flake
Gingrich
Hatcher
Hopkins
Hunter
Hyde
Ireland
Markey
McCollum
Solomon
Staggers
Tanner
Towns
Traxler
Walker
Weber
Weiss
Wilson

□ 1319

The Clerk announced the following pairs:

On this vote:

Mr. Barton for, with Mr. Flake against.

Mr. Cunningham for, with Mr. Towns against.

Messrs. CAMP, McCANDLESS, EDWARDS of Oklahoma, OLVER, GALLEGLY, and FIELDS changed their vote from "aye" to "no."

Mr. McEWEN changed his vote from "no" to "aye."

So the amendment in the nature of a substitute was rejected.

The result of the vote was announced as above recorded.

□ 1320

The CHAIRMAN. It is now in order to consider amendment No. 8 printed in House Report 102–838.

AMENDMENT IN THE NATURE OF A SUBSTITUTE OFFERED BY MR. GOODLING

Mr. GOODLING. Mr. Chairman, I offer an amendment in the nature of a substitute.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment in the nature of a substitute offered by Mr. GOODLING:

Strike all after the enacting clause and insert the following:

SECTION 1. PURPOSES.

The purposes of this Act are—

(1) to reconfigure the National Education Goals Panel to provide for full congressional participation;

(2) to establish a process in support of voluntary national education standards and a national system of examinations;

(3) to authorize a grants program to States and localities to encourage dramatic, new approaches to education that are likely to provide students with an opportunity to achieve the national goals;

(4) to establish a system by which States, local educational agencies, and schools can utilize Federal, State, and local education program funds in a more flexible manner in order to improve delivery and effectiveness of programs;

(5) to authorize a program of grants to States and localities to establish New American Schools; and

(6) to authorize a program of student mentoring.

SEC. 2. AUTHORIZATION OF THE NATIONAL EDUCATIONAL GOALS PANEL.

The Elementary and Secondary Education Act of 1965 (20 U.S.C. 2701 et seq.) is amended—

(1) by redesignating sections 8001 through 8005 as 13001 through 13005; and

(2) by inserting after title VII the following:

"TITLE VIII—VOLUNTARY STANDARDS AND ASSESSMENT

"PART A—NATIONAL EDUCATION GOALS PANEL

"SECTION 8001. GOALS PANEL.

"(a) ESTABLISHMENT.—There is established within the Department of Education a National Education Goals Panel (referred to in this part as the "Panel").

"(b) COMPOSITION.—

"(1) IN GENERAL.—The Panel shall be composed of 14 members (referred to in this part as "members"), including—

"(A) two members appointed by the President;

"(B) eight Governors, three of whom shall be from the same political party as the President and five of whom shall be of the opposite political party to the President, appointed by the Chairperson or Vice Chairperson of the National Governors' Association, with each appointing individuals of such respective political party, in consultation with each other and in accordance with paragraph (2); and

"(C) four Members of Congress appointed as follows:

"(i) The majority leader of the Senate shall appoint 1 individual from among the Members of the Senate.

"(ii) The minority leader of the Senate shall appoint 1 individual from among the Members of the Senate.

"(iii) The majority leader of the House of Representatives shall appoint 1 individual from among the Members of the House of Representatives.

"(iv) The minority leader of the House of Representatives shall appoint 1 individual from among the Members of the House of Representatives.

"(2) SPECIAL APPOINTMENT RULES.—(A) The members appointed pursuant to paragraph (1)(B) shall be appointed as follows:

"(i) If the Chairperson of the National Governors' Association is from the same political party as the President, the Chairperson shall appoint 3 individuals pursuant to such paragraph and the Vice Chairperson shall appoint 5 persons pursuant to such paragraph.

"(ii) If the Chairperson of the National Governors' Association is from the opposite political party as the President, the Chairperson shall appoint 5 persons pursuant to such paragraph and the Vice Chairperson shall appoint 3 persons pursuant to such paragraph.

"(B) If the National Governors' Association has appointed a panel that meets the requirements of this subsection prior to the date of enactment of this Act, the members

serving on such panel shall be deemed to be in compliance with the provisions of this subsection and shall not be required to be reappointed pursuant to this subsection.

"(c) TERMS.—The terms of service of members shall be as follows:

"(1) EXECUTIVE BRANCH.—Members appointed under paragraph (1)(A) shall serve at the pleasure of the President.

"(2) GOVERNORS.—Members appointed under paragraph (1)(B) shall serve a two-year term, except that the initial appointments under such paragraph shall be made to ensure staggered terms with one-half of such member's terms concluding every two years.

"(3) MEMBERS OF CONGRESS.—Members appointed under paragraph (1)(C) shall serve a term of four years.

"(d) INITIATION.—The Panel may begin to carry out the duties of the Panel under this part when seven members of the Panel have been appointed.

"(e) DATE OF APPOINTMENT.—The initial members shall be appointed not later than 60 days after the date of enactment of this Act.

"(f) RETENTION.—In order to retain an appointment to the Panel, a member must attend at least two-thirds of the scheduled meetings of the Panel in any given year.

"(g) VACANCIES.—A vacancy on the Panel shall not affect the powers of the Panel, but shall be filled in the same manner as the original appointment.

"(h) TRAVEL.—Each member shall be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of title 5, United States Code, for each day the member is engaged in the performance of duties away from the home or regular place of business of the member.

"(i) CHAIRPERSON SELECTION.—

"(1) INITIAL SELECTION.—The members appointed under subsection (b)(2) shall select a Chairperson from among such members, except that after the expiration of the term or termination of the tenure of the member initially selected to serve as Chairperson, whichever is earlier, a majority of the members of the Council shall select a Chairperson from among the members.

"(2) CONTINGENT SELECTION.—If no individual described in paragraph (1) assumes the position of Chairperson of the Council 60 days after the date of the enactment of this Act, a majority of the members shall select a Chairperson from among the members.

"SEC. 8002. FUNCTIONS.

"(a) FUNCTIONS.—

"(1) IN GENERAL.—The Panel shall—

"(A) propose the indicators to be used to measure the National Education Goals and reporting progress in achieving such goals, the baselines and benchmarks against which progress may be evaluated, and the format for an annual report to the Nation;

"(B) select interim and final measures and appropriate measurement tools to be developed as necessary in each goal area;

"(C) report on the Federal actions to fulfill responsibilities to education, including funding the Federal financial role, providing more flexibility and controlling mandates that limit the States' ability to fund education;

"(D) issue a report to the President, the Congress, the Governors, and the Nation annually on progress toward the National Education Goals;

"(E) assure, through requirements for State reports, that student performance is reported in the context of other relevant information about student, school and system performance;

"(F) identify gaps in existing educational data, make recommendations for improvements in the methods and procedures for assessments that would be appropriate to assessing progress toward the National Education Goals, propose changes in national and international measurement systems as appropriate and make recommendations to the President, the Congress, and the Governors for needed improvements;

"(G) appoint members to the National Education Standards and Assessments Council; and

"(H) in accordance with paragraph (2), issue certification of content and student performance standards and the criteria for world-class assessments after submission of such notification of approval by the National Education Standards and Assessments Council.

"(2) SPECIAL RULE.—In the event that the Panel denies certification to all or part of a certification of the National Education Standards and Assessments Council, all or part of a certification shall be returned to such Council with detailed written explanations for the denial.

"(b) PERFORMANCE OF FUNCTIONS.—In carrying out its responsibilities, the Panel shall operate on the principle of consensus.

"(c) DATA COLLECTION.—The Panel shall make arrangements with any appropriate entity to generate or collect such data as may be necessary to appropriately assess progress toward the National Education Goals.

"SEC. 8003. ANNUAL REPORT CARD.

"(a) IN GENERAL.—The Panel shall prepare and submit to the President, the appropriate committees of Congress, and the Governor of each State a national report card, that—

"(1) sets forth an analysis of the progress of the United States toward achieving the National Education Goals; and

"(2) may, as determined necessary by the Panel based on the findings of the Panel and an analysis of the views and comments of all interested parties—

"(A) identify continuing gaps in existing educational data; and

"(B) make recommendations for improvement in the methods and procedures of assessing educational attainment and strengthening the national educational assessment and information system of the Department of Education or any other appropriate Federal Government entity.

"(b) CONTINUATION.—The Panel shall issue a national report card on an annual basis for the duration of the existence of the Panel.

"(c) FORMAT.—National Report Cards shall be presented in a form that is understandable to parents and the general public.

"SEC. 8004. POWERS OF THE PANEL.

"(a) HEARINGS.—

"(1) IN GENERAL.—The Panel shall, for the purpose of carrying out this part, conduct such hearings, sit and act at such times and places, take such testimony, and receive such evidence, as the Panel considers appropriate.

"(2) PUBLIC HEARINGS.—In carrying out this part, the Panel shall conduct public hearings in different geographic areas of the country, both urban and rural, to receive the reports, views, and analyses of a broad spectrum of experts and the public regarding the Panel's functions described in section 8002(a).

"(b) INFORMATION.—The Panel may secure directly from any department or agency of the United States, information necessary to enable the Panel to carry out this title. Upon request of the Chairperson of the Panel, the head of a department or agency shall furnish such information to the Panel to the extent permitted by law.

"(c) GIFTS.—The Panel may accept, use, and dispose of gifts or donations of services or property.

"(d) POSTAL SERVICES.—The Panel may use the United States mail in the same manner and under the same conditions as other departments and agencies of the United States.

"(e) ADMINISTRATIVE AND SUPPORTIVE SERVICES.—The Secretary of Education shall provide to the Panel, on a reimbursable basis, administrative support services as the Panel may request.

"SEC. 8005. ADMINISTRATIVE PROVISIONS.

"(a) MEETINGS.—The Panel shall meet on a regular basis, as necessary, at the call of the Chairperson of the Panel or a majority of its members.

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

"(c) VOTING.—No individual may vote or exercise any of the powers of a member by proxy.

"SEC. 8006. DIRECTOR AND STAFF; EXPERTS AND CONSULTANTS.

"(a) DIRECTOR.—The Chairperson of the Panel shall, without regard to the provisions of title 5, United States Code, relating to the appointment and compensation of officers or employees of the United States, appoint a Director to be paid at a rate not to exceed the rate of basic pay payable for level V of the Executive Schedule.

"(b) APPOINTMENT AND PAY OF STAFF.—The Chairperson of the Panel may appoint personnel as the Chairperson considers appropriate without regard to the provisions of title 5, United States Code, governing appointments to the competitive service. The staff of the Panel may be paid without regard to the provisions of chapter 51 and subchapter III of chapter 53 of title 5, United States Code, relating to classification and General Schedule pay rates. The rate of pay of the staff of the Panel shall not exceed the rate of basic pay payable for GS–15 of the General Schedule.

"(c) EXPERTS AND CONSULTANTS.—The Panel may procure temporary and intermittent services under section 3019(b) of title 5, United States Code.

"(d) STAFF OF FEDERAL AGENCIES.—Upon the request of the Panel, the head of any department or agency of the United States is authorized to detail, on a reimbursable basis, any of the personnel of that agency to the Panel to assist the Panel in its duties under this title.

"SEC. 8007. AUTHORIZATION OF APPROPRIATIONS.

"There are authorized to be appropriated $2,000,000 for fiscal year 1992 and such sums as may be necessary for each of the fiscal years 1993 through 2001 to carry out this part.

PART B—VOLUNTARY NATIONAL EDUCATION STANDARDS AND ASSESSMENTS

"SEC. 8101. NATIONAL EDUCATION STANDARDS AND ASSESSMENTS COUNCIL.

"(a) ESTABLISHMENT.—There is established within the Department of Education a National Education Standards and Assessments Council (referred to in this part as the "Council").

"(b) APPOINTMENT AND COMPOSITION.—

"(1) APPOINTMENT.—The Council shall be composed of 19 members (referred to in this part as "members") appointed by the National Education Goals Panel described in section 8001.

"(2) COMPOSITION.—The Council shall be composed of—

"(A) 9 educators who have demonstrated leadership in educational innovation, includ-

ing at least 1 person with expertise in each of educational measurement, assessment, subject matter scholarship, and curriculum design;

"(B) 5 State and local public officials who possess strong education backgrounds and have displayed a commitment to improving education;

"(C) 5 members of the general public who have demonstrated a commitment to improving education and bring additional perspectives from the business, foundation, and advocacy communities within the private sector.

"(c) QUALIFICATIONS.—

"(1) IN GENERAL.—Members shall—

"(A) be appointed to the Council on the basis of widely recognized experience in, knowledge of, commitment to, and a demonstrated record of service to, education and to achieving education excellence at the Federal, State or local level; and

"(B) include curriculum design specialists, subject matter scholars, and testing or measurement experts (experts in educational evaluation, educational measurement, educational assessment, educational psychology, or psychometrics).

"(2) NOMINATIONS.—Members under this subsection shall be appointed from among qualified individuals nominated by the public and other groups representative of public officials, educators, and individuals described in subsection (c)(1).

"(d) TERMS.—

"(1) IN GENERAL.—The members shall be appointed for 3-year terms, with no member serving more than 2 consecutive terms.

"(2) CONFLICT OF INTEREST.—(A) No member of the Council may concurrently serve as a member of the Panel or on any other Department of Education advisory board or standing panel.

"(B)(i) No waiver shall be granted to members of the Council pursuant to section 208(b)(3) of title 18, United States Code, regarding conflict of interest.

"(ii) Any person who serves on the Council shall report any subsequent proposals for Federal, State, or local funding related to the standards and assessments described in subsection (e) to the National Goals Panel, the appropriate authorizing committees of Congress, and to the Department of Education.

"(3) DATE OF APPOINTMENT.—The initial members shall be appointed by the Panel, not later than 120 days after the date of enactment of this Act.

"(4) RETENTION.—In order to retain an appointment to the Council, a member must attend at least two-thirds of the scheduled meetings of the Council in any given year.

"(5) OFFICER SELECTION.—The members appointed under subsection (b)(2) shall select officers of the Council from among the members of the Council. The officers of the Council shall serve for 1-year terms.

"(6) VACANCIES.—A vacancy on the Council shall not affect the powers of the Council, but shall be filled in the same manner as the original appointment.

"(7) TRAVEL.—Each member of the Council shall be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of title 5, United States Code, for each day the member is engaged in the performance of duties away from the home or regular place of business of the member.

"(e) FUNCTIONS OF THE COUNCIL.—

"(1) STANDARDS.—The Council shall, with regards to standards—

"(A) coordinate the effort to establish voluntary national education content and student performance standards;

"(B) develop criteria for what constitutes world-class content and student performance standards and establish guidelines for standard setting and development to ensure consensus building and broad participation in the process, including those most knowledgeable about the discipline; and

"(C) issue approval of content and student performance standards as world-class based on the criteria and guidelines described in subparagraph (B) and transmit such approved standards to the Panel for the Panel's certification.

"(2) ASSESSMENTS.—The Council shall, with regards to assessments—

"(A) be a coordinating body to encourage a voluntary system of assessments for individual students consistent with the voluntary national standards;

"(B) establish guidelines for the development and use of assessments to ensure that assessments are valid, reliable, and fair;

"(C) develop criteria for assessments, and the use of such assessments, to ensure that the assessments measure the world class standards and meet the guidelines described in subparagraph (B);

"(D) establish procedures and criteria to determine whether assessments are comparable to each other without sacrificing the validity, reliability, and fairness of the assessments;

"(E) transmit such criteria to the Panel to review for certification.

"(3) GUIDELINES.—The Council shall establish guidelines for the use and design of standards and assessments, and of data derived from such assessments, so that—

"(A) all students are provided with a rigorous and challenging curriculum designed to meet or exceed the standards;

"(B) no student is placed in a curriculum track or is otherwise labeled on the basis of such student's performance on an assessment certified pursuant to this section; and

"(C) student performance is reported in the context of other relevant information about aggregate student, school, and system performance.

"(4) REEXAMINATION.—The Council shall reexamine the criteria for certification at least once every 3 years and shall reexamine any certified national standards at least once every 3 years to ascertain whether such standards continue to meet the criteria described in paragraphs (1), (2), and (3).

"(f) PERFORMANCE OF FUNCTIONS.—In carrying out its responsibilities, the Council shall work with Federal and non-Federal agencies and organizations which are conducting research, studies, or demonstration projects to determine world-class education standards and assessments based on such standards.

"(g) PROCEDURES.—

"(1) PUBLICATION.—The Council shall publish in the Federal Register—

"(A) proposed criteria for determining what are world-class content and student performance standards;

"(B) proposed guidelines for standards setting;

"(C) proposed procedures and criteria for certifying content standards as world class; and

"(D) proposed procedures and criteria for assessments that measure such world-class standards.

"(2) FINAL REGULATIONS.—Final regulations, reflecting public comment, for the proposals developed in accordance with paragraph (1) shall be published in the Federal Register prior to the implementation of such regulations.

"(h) DATA COLLECTION.—The Council shall make arrangements with any appropriate entity to generate or collect such data as may be necessary to carry out the Council's functions.

"SEC. 8102. ANNUAL REPORTS.

"(a) IN GENERAL.—Not later than 1 year after the date that the Council concludes its first meeting of members and in each succeeding year, the Council shall prepare and submit to the President, the appropriate committees of Congress, the Secretary, and the Governor of each State a report regarding its findings. Such report shall—

"(1) analyze the progress and obstacles, if any, toward the development and certification of world-class content and student performance standards;

"(2) analyze the progress and obstacles, if any, toward the development and certification of any criteria for assessments that reflect the world-class standards; and

"(3) analyze the progress and obstacles, if any, to the adoption of certified content and student performance standards by State and local educational agencies.

"(b) SPECIAL RULE.—In carrying out paragraph (3) of subsection (a), the Council, through the National Center for Education Statistics, shall collect information on the implementation by State and local educational agencies of certified content standards, including—

"(1) adoption of curricula frameworks, including instructional materials, assessments and teacher training that incorporates or reflects world-class content standards;

"(2) availability of school resources, including instructional materials and technology, necessary to meet world-class standards;

"(3) staff capacity;

"(4) school governance systems; and

"(5) barriers to implementation of world-class standards.

"SEC. 8103. POWERS OF THE COUNCIL.

"(a) REGIONAL MEETINGS.—(1) The Council shall convene regional meetings to obtain public involvement in the development of proposed regulations implementing this section. Such meetings shall include individuals and representatives of the groups involved in content and student performance standards setting and assessments, including educators, administrators, students, parents, curriculum and assessment experts, and organizations which have demonstrated experience in these areas.

"(2) The meetings described in paragraph (1) shall provide for a comprehensive discussion and exchange of information regarding the implementation of this section and the Council shall take into account the information received in such meetings in developing regulations.

"(3) The Council shall solicit public comment on any proposed guidelines and criteria and on standards submitted for approval and certification.

"(b) INFORMATION.—The Council may secure directly from any department or agency of the United States information necessary to enable the Council to carry out this part. Upon request of the Chairperson of the Council, the head of a department or agency shall furnish such information to the Council to the extent permitted by law.

"(c) GIFTS.—The Council may accept, use, and dispose of gifts or donations of services or property.

"(d) POSTAL SERVICES.—The Council may use the United States mail in the same manner and under the same conditions as other departments and agencies of the United States.

"(e) ADMINISTRATIVE AND SUPPORTIVE SERVICES.—The Secretary shall provide to

the Council, on a reimbursable basis, administrative support services as the Council may request.

"SEC. 8104. ADMINISTRATIVE PROVISIONS.

"(a) MEETINGS.—The Council shall meet on a regular basis, as necessary, at the call of the Chairperson of the Council or a majority of its members.

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

"(c) VOTING.—The Council shall take all action of the Council by a two-thirds majority vote of the total membership of the Council, assuring the right of the minority to issue written views. No individual may vote or exercise any of the powers of a member by proxy.

"SEC. 8105. DIRECTOR AND STAFF; EXPERTS AND CONSULTANTS.

"(a) DIRECTOR.—The Council shall, without regard to the provisions of title 5, United States Code, relating to the appointment and compensation of officers or employees of the United States, appoint a Director, who by virtue of education, training, and experience, is eminently qualified to assist the Council in administering the functions described in section 8101(e) of this part to be paid at a rate not to exceed the rate of basic pay payable for level V of the Executive Schedule.

"(b) APPOINTMENT AND PAY OF STAFF.—The Council may appoint personnel who by virtue of education, training, and experience are eminently qualified to assist the Council in administering the functions described in section 8101(e). Such appointments can be made without regard to the provisions of title 5, United States Code, governing appointments to the competitive service and the staff of the Council may be paid without regard to the provisions of chapter 51 and subchapter III of chapter 53 of title 5, United States Code, relating to classification and General Schedule pay rates. The rate of pay of the staff of the Council shall not exceed the rate of basic pay payable for GS–15 of the General Schedule.

"(c) EXPERTS AND CONSULTANTS.—The Council may procure temporary and intermittent services under section 3019(b) of title 5, United States Code, if the individual performing such services, by virtue of education, training, and experience, is eminently qualified to assist the Council in administering the functions described in section 8101(e).

"(d) STAFF OF FEDERAL AGENCIES.—Upon the request of the Council, the head of any department or agency of the United States is authorized to detail, on a reimbursable basis, any of the personnel of that department or agency to the Council to assist the Council in its duties under this part.

"(e) CONFLICT OF INTEREST.—No director, staff, expert, or consultant may serve the Council if such person directly or indirectly has any financial interest in the development of tests or assessments related to the standards described in section 8101(e). Any person who served the Council in such capacity shall submit any subsequent proposals for Federal, State, or local funding related to the standards or assessments described in section 8101(e) to the National Goals Panel, the Congress, and to the Department of Education.

"SEC. 8106. EVALUATION.

"The National Academy of Sciences shall conduct an evaluation of the work of the Council, including—

"(1) an analysis of the technical expertise of the panel and its use of outside technical assistance;

"(2) an analysis of the process of establishing guidelines and criteria for the development and certification of standards and such guidelines and criteria;

"(3) a review of standards that are certified;

"(4) an evaluation of the process for establishing criteria for assessments of world-class standards and such criteria; and

"(5) an evaluation of the research and development work being carried out by the Department of Education, in the areas of education standards, curriculum, and assessment.

"SEC. 8107. AUTHORIZATION OF APPROPRIATIONS.

"There are authorized to be appropriated to the Council $2,000,000 for each of the fiscal years 1993, and 1994 and such sums as may be necessary for fiscal years 1995 through 1997 to carry out this part.

"TITLE IX—NEIGHBORHOOD SCHOOLS IMPROVEMENT

"SEC. 9001. SHORT TITLE.

"This title may be cited as the "Neighborhood Schools Improvement Act".

"SEC. 9002. CONGRESSIONAL FINDINGS.

"The Congress finds that—

"(1) all students can learn and must realize their potential if the United States is to prosper;

"(2) the reforms in education of the last 15 years have achieved good results, but these efforts often have been limited to a few schools or to a single part of the educational system;

"(3) additional pilot projects will have the same limited effect as previous reforms and isolated changes in policy will most likely have minimal impact;

"(4) strategies must be developed by States and communities to support the revitalization of all local schools by fundamentally changing the entire system of education through comprehensive, coherent, and coordinated improvement;

"(5) parents, teachers and other local educators, and community leaders must be involved in developing system-wide reform strategies that reflect the needs of their individual communities;

"(6) States and local educational agencies, working together, must immediately set about developing and implementing such system-wide reform strategies if the Nation is to educate all children to meet their full potential and achieve national goals;

"(7) increasing funding for existing Federal education programs at levels that will enable them to fulfill their mission is a critical part of assisting States and local educational agencies in their school improvement efforts; and

"(8) additional Federal funds should be targeted to support State and local initiatives and to leverage State and local resources for designing and implementing system-wide reform plans.

"SEC. 9003. PURPOSE.

"The purpose of this title is to raise the quality of education for all students by supporting a 10-year broad based public effort to promote coherent and coordinated changes in the system of education throughout the Nation at the State and local level without jeopardizing funding for existing Federal education programs.

"SEC. 9004. PROGRAM AUTHORIZED.

"The Secretary is authorized, in accordance with the provisions of this title, to make grants to State educational agencies to enable States and local educational agencies to reform and improve the quality of education throughout the Nation. Such grants shall be used to—

"(1) develop innovative educational reform plans, which include State achievement goals, a means for developing or adopting high quality, challenging curricular frameworks and coordinated curricular materials, professional development strategies, and assessment instruments; and

"(2) implement reforms and plans to improve the education system at the State and local levels.

"SEC. 9005. APPLICATION.

"(a) IN GENERAL.—If a State desires to receive assistance under this title, the State educational agency shall submit an application to the Secretary at such time, in such manner, and accompanied by such additional information as the Secretary may reasonably require. Such application shall cover a 5-year period.

"(b) CONSIDERATION OF APPLICATIONS.—Each such application shall—

"(1) contain satisfactory evidence that the State educational agency has or will have authority, by legislation if necessary, to implement the plan required under section 9006;

"(2) provide an assurance that the State has a strategy for ensuring broad participation in the planning process, including parents, students, teachers, principals, superintendents, secondary and postsecondary vocational education teachers and administrators, local school board members, representatives of the employment and training network, the deans of colleges of education, representatives of community-based organizations, testing and curriculum experts, the director of the State office responsible for teacher certification, and the director of the State human services agency, to establish the goals and to refine them in the future, as well as participate in the development of all other components of the plan;

"(3) provide an assurance that the State will notify the public (including individuals with limited English proficiency), through print and electronic media and the local educational agency through actual notice—

"(A) that the State has made application for funds under this title;

"(B) of the purposes for which the funds will be used; and

"(C) that the State is developing a plan under section 9006;

"(4) provide an assurance that all students will have equal access to the curricular frameworks, high quality curricular materials, and well-qualified teachers;

"(5) describe actions taken and resources identified or committed to meet the requirements of this title;

"(6) provide an assurance that the applicant will prepare and submit to the Secretary, annual evaluations of and reports concerning the State program; and

"(7) provide an assurance that the State will carry out the provisions of section 9006.

"(c) APPROVAL.—The Secretary shall approve an application and any amendment to the application if the application or the amendment to such application meets the requirements of this section and is of sufficient quality to meet the objectives of this title. The Secretary shall not finally disapprove an application or an amendment to such application except after giving reasonable notice, technical assistance, and an opportunity for a hearing.

"(d) REAPPLICATION.—(1) A State educational agency may apply for assistance for a second 5-year period and such application shall be approved by the Secretary if the State—

"(A) has met all of its reporting requirements; and

"(B) demonstrates that it has made reasonable progress in carrying out its plan.

"(2) The Secretary shall not finally disapprove an application or an amendment to such application except after giving reasonable notice, technical assistance, and an opportunity for a hearing.

"SEC. 9006. DEVELOPMENT AND APPROVAL OF STATE PLAN.

"(a) ESTABLISHMENT OF PANEL.—Each State program assisted under this title shall establish a panel to develop a statewide reform plan. Such panel shall consist of—

"(1) the chief executive of the State (or designee);

"(2) the presiding officers and the minority leaders of the State legislature (or designees);

"(3) the chief State school officer;

"(4) the head of the office that coordinates higher education programs in the State or, if there is no such office, the head of the office designated under section 2008 of the Dwight D. Eisenhower Mathematics and Science Education Act (20 U.S.C. 2988) (or designee);

"(5) an individual nominated by representatives of local educational agencies that comprise between 5 to 10 percent of the local educational agencies in the State with the lowest average per pupil expenditures, except in the case of a State with a single local educational agency; and

"(6) individuals nominated by State organizations representing each of the following:

"(A) Teachers.

"(B) School administrators.

"(C) Local school boards.

"(D) Parents.

"(E) Businesses.

"(F) State board of education.

"(G) Students.

"(b) ADDITIONAL MEMBERS.—(1) The first meeting of such panel shall be convened by the chief executive of the State and the chief State school officer, where permitted by law. At such meeting, the panel members designated and nominated in subsection (a) shall select additional panel members, including the chairpersons of the State legislative committees with jurisdiction over education, individuals reflecting the ethnic and racial diversity of the general population of the State, and (except in the case of a State with a single local educational agency) an individual nominated by representatives of the 5 local educational agencies with the highest number of students eligible for services under part A of chapter 1 of title I of this Act.

"(2) The membership of the panel shall be geographically representative of all areas of the State and shall not exceed 25 in number.

"(3) Following the selection of additional members, the chief executive of the State and the chief State school officer, where permitted by law, shall convene a meeting of the full panel to establish procedures regarding the operation of subsequent meetings, including the designation of a panel chairperson, consistent with applicable State law.

"(c) DEVELOPMENT OF STATE PLAN.—(1) The panel shall develop a plan that—

"(A) establishes State goals to maximize achievement for all children in conjunction with national educational goals;

"(B) establishes curricular frameworks in specific subject matter areas that incorporate the goals established under subparagraph (A);

"(C) provides for the development or adoption of instructional materials to assist the implementation of the curricular frameworks;

"(D) allocates resources to implement such a system-wide reform plan;

"(E) provides for the establishment or adoption of a valid, reliable, and fair assessment system based upon the curricular frameworks that is capable of accurately measuring the skills and knowledge required to meet State goals;

"(F) provides for professional development strategies necessary for achieving the State goals;

"(G) establishes a process for reviewing Federal, State, and local laws and regulations and for recommending changes in such laws and regulations to further state-wide reform;

"(H) provides a process for selecting local educational agencies for participation in local system-wide reform efforts;

"(I) provides for the development of objective criteria and measures against which the success of local plans can be evaluated;

"(J) provides for the ongoing evaluation of the effectiveness of the State plan in closing the gap between high and low achieving students to be assessed using achievement and other measures such as attendance, grade retention, and dropout rates;

"(K) provides for the availability of curricular frameworks, curricular materials, and professional development in a manner ensuring equal access by all local educational agencies in the State;

"(L) provides for a thorough review of the State's school finance program, focusing on the adequacy of, and disparities in, the financial resources available to each local educational agency, and how such disparity affects the ability of the State educational agency and local educational agencies to develop and implement reform activities consistent with this title;

"(M) describes the steps the State educational agency shall take to ensure that successful programs and practices supported by subgrants awarded to local educational agencies under this title shall be disseminated to other local educational agencies in the State;

"(N) provides for the development of an adequate research, training, and evaluation capacity within the State to further the purposes of this title; and

"(O) describes methods of coordinating health and social services with education through State interagency cooperation and agreements.

"(2) In developing the plan, the panel shall—

"(A) emphasize outcome measures rather than prescribing how the State and local educational agencies should achieve such outcomes;

"(B) review recent innovations by other States and by national professional subject matter organizations in educational goals, curricula, and assessment nationally;

"(C) review existing Federal education programs and how they can contribute to the State plan; and

"(D) ensure broad-based participation through regular notice and dissemination of information to the public (including individuals with limited English proficiency) using print and electronic media.

"(3) Following the development of the plan, the panel shall seek public comment by—

"(A) publishing the plan with a comment period of at least 60 days, or

"(B) notifying the public through electronic and print media and conducting regional hearings.

"After providing the public with an opportunity to comment on the plan, the panel shall consider the public comments and make appropriate changes.

"(4) The plan shall be submitted to the State for review and approval by the State educational agency, except that any changes to such plan shall be made with the concurrence of the panel. Prior to implementing the plan, the State educational agency shall submit such plan to the Secretary for approval. In the event that the State has previously accomplished any of the reform activities required under this title in a specific subject area or set of grade levels, the State is not required to include them in the plan but shall include a request for a waiver, including a description of such accomplishments.

"(5)(A) The Secretary shall approve a State's plan if such plan—

"(i) meets the requirements of this section;

"(ii) is of sufficient quality to meet the objectives of this title; and

"(iii) provides evidence that the State has, or will have, the resources necessary to carry it out.

"(B) The Secretary shall not finally disapprove a plan or an amendment to such plan except after giving reasonable notice, technical assistance, and an opportunity for a hearing.

"(d) REVIEW OF STATE PLAN.—The panel and the State educational agency shall review on an ongoing basis, the implementation of the State plan for the period during which the State receives funding under this title. The results of such review shall be prepared in writing by the panel and included by the State in its annual report to the Secretary under section 9013(a).

"SEC. 9007. STATE USES OF FUNDS.

"(a) USES OF FUNDS.—Funds allotted by the Secretary under section 9011(a) and State and private funds contributed to make up the total cost of a State program as provided in section 9011(b) shall be used by a State with an approved application for the following purposes—

"(1) development and implementation of the State plan, including the establishment of State goals, curricular frameworks, and assessment systems;

"(2) activities of the panel (including the travel expenses of the members of such panel);

"(3) subgrants to local educational agencies;

"(4) technical assistance (including dissemination of information) to local educational agencies to assist in developing and carrying out their plans; and

"(5) evaluation, reporting, and data collection.

"(b) LOCAL EDUCATIONAL AGENCIES.—In the first year that a State receives an allotment under this title, the State educational agency may make subgrants for the purpose of developing local plans as provided in section 9008 consistent with section 9006(c)(1)(H). In the second year, and in each succeeding year, from not less than 75 percent of the total cost of a State's program, the State educational agency shall make subgrants to local educational agencies which shall include—

"(1) at least one local educational agency in each congressional district shall receive a subgrant; and

"(2) the local educational agency with the greatest number of disadvantaged children in the State shall receive a subgrant.

"(c) SPECIAL PROVISION.—Funds available under section 9011 shall be used to carry out the plan in a manner which ensures that all children, especially those identified through

the assessment process (using achievement and other measures) as not achieving satisfactorily, are afforded ample opportunity to reach local, State, and national goals.

"SEC. 9008. DEVELOPMENT AND APPROVAL OF LOCAL PLANS.

"(a) LOCAL COMMITTEE.—(1) A local educational agency which desires to receive a subgrant under this section shall establish a committee comprised of—

"(A) the chief elected officer of the unit of general purpose local government with boundaries which are most closely aligned with the geographic boundaries of the local educational agency;

"(B) the superintendent of the local educational agency;

"(C) a representative nominated by the local school board;

"(D) a representative nominated by a local teacher association;

"(E) a representative nominated by the largest business association with business members having an interest in educational improvement that operate in a geographic area that is most closely aligned with the local educational agency;

"(F) a representative nominated by the parents of children served by part A of chapter 1 of title I of this Act; and

"(G) the elected head of a district-wide student organization, if one exists.

"(2)(A) The first meeting of such committee shall be convened by the superintendent to enable the committee members designated and selected in paragraph (1) to select additional members including—

"(i) parents of students in elementary, middle, and secondary schools;

"(ii) representatives of community-based organizations;

"(iii) members of the general public with a strong interest in education;

"(iv) principals;

"(v) teachers;

"(vi) school counselors, psychologists, and social workers;

"(vii) curriculum, testing, and evaluation supervisors; and

"(viii) a representative of a local higher education institution.

"(B) The total number of committee members may not exceed 25.

"(C) If a comparable local committee is in place which includes more than 25 members and includes or will include representatives required by this title, the membership limit in paragraph (B) will be waived.

"(3) Following the selection of the additional members, the superintendent shall convene a meeting of the full committee to establish procedures regarding the operation of subsequent meetings, including the designation of a committee chairperson, consistent with applicable State and local law.

"(4) Each meeting of such committee shall be open to the public.

"(5) The committee shall develop the local plan described in subsection (b).

"(b) LOCAL PLAN.—(1) As described in the State reform plan, and consistent with the recommendations of the panel established under section 9006, the State shall make subgrants to local educational agencies. Each subgrant shall be of a sufficient amount to develop or implement a locally developed plan which—

"(A) is formally approved by the local educational agency;

"(B) describes a process to ensure broad-based community participation in the development of the local plan;

"(C) provides assurance that the local educational agency shall provide for an ongoing evaluation of the effectiveness of the plan in meeting State and local goals, and that such agency will annually review the local plan;

"(D) proposes district-wide reform which includes—

"(i) the setting of local goals;

"(ii) the development of adoption of curricular and instructional materials which reflect State goals, State curricular frameworks and local goals;

"(iii) the development or adoption of an assessment system which is curriculum based and includes achievement and other indicators that validly, fairly, and reliably measure progress of all students (including students from non-English language backgrounds and students with disabilities) toward meeting State and local goals;

"(iv) the provision of teacher and administrator training; and

"(v) a review and restructuring, if necessary, of the administrative and staffing structure of the local educational agency and individual schools within such agency.

"(E) describes how parents are involved in the development, operation, and evaluation of programs and activities assisted under this title;

"(F) provides for the availability of curricular frameworks, curricular materials, and professional development in a nondiscriminatory manner;

"(G) provides for the ongoing evaluation of the effectiveness of the local plan in closing the gap between high and low achieving students using achievement and other measures such as attendance, grade retention, and dropout rates;

"(H) reviews existing Federal education programs, including early childhood education programs, and how they contribute to the local plan;

"(I) based on the recommendations of teachers and principals, identifies and describes Federal, State, and local laws and regulations that may impede the implementation of the plan, if any;

"(J) describes the process that will be used to ensure that the funds received will be used to the maximum extent at the local school level; and

"(K) describes the steps the local educational agency shall take to ensure that successful practices supported by assistance provided to schools under this title shall be disseminated to other schools in the local educational agency.

"(2) In making subgrants to local educational agencies under this subsection, the State shall give priority consideration to local plans which are broadly supported within their communities as evidenced by—

"(A) the comments of the local committee required under subsection (e)(2);

"(B) the record of the hearings conducted by local educational agencies under subsection (d)(2); and

"(C) letters and resolutions submitted by local groups and organizations.

"(c) ASSISTANCE FOR LOCAL PLAN DEVELOPMENT.—The State shall, upon the request of the committee of a local educational agency, provide technical assistance in the development of a local plan which—

"(1)(A) is to be submitted by a local educational agency with a large number or percentage of educationally disadvantaged students or students who have dropped out of school; or

"(B) is to be submitted by a local educational agency which demonstrates need for such assistance;

"(2) promotes comprehensive, district-wide reform; and

"(3) has the support of parents, teachers, businesses, and community-based service organizations.

"(d) SUBMISSION OF LOCAL PLAN.—(1) The committee shall submit the plan to the local educational agency for review.

"(2) Prior to consideration of the plan for approval, the local educational agency, with proper public notice, shall conduct public meetings to:

"(A) receive an explanation of the plan by the local committee;

"(B) review and discuss the plan, including—

"(i) whether it meets the requirements of this section;

"(ii) the revenue, resource, and budget implications of the plan for the local educational agency; and

"(iii) the effect of the plan on staffing, organization, personnel policies, and collective bargaining agreements of the local educational agency;

"(C) discuss possible modifications to the plan; and

"(D) solicit the views of other interested persons, including the superintendent, principals, teachers, other officials of the local educational agency, parents, and students.

"(e) CONSIDERATION OF LOCAL PLAN.—

"(1) After the meetings required under subsection (d), the local educational agency, with proper notice, shall convene a public meeting to consider the local plan and shall—

"(A) approve the plan;

"(B) disapprove the plan; or

"(C) return the plan to the committee for further development.

"(2) A local educational agency which approves a local plan shall include the written comments of the local committee prior to submitting such plan to the State for consideration for a subgrant.

"(3) Additional development, submission, and consideration of the local plan shall be consistent with the provisions of this section.

"(f) ADDITIONAL SUBGRANT.—A local educational agency may not receive an additional subgrant in a succeeding year unless such local educational agency demonstrates reasonable progress in the implementation of its local plan and, after its third year of funding under this title, provides evidence of improved student achievement.

"(g) REVIEW OF LOCAL PLAN.—(1) The committee and the local educational agency shall review, on an ongoing basis, the progress of the local educational agency in implementing the local plan for the period during which such agency receives funding under this title.

"(2) The committee shall annually submit a written progress report to the local educational agency, the State panel established under section 9006, and the State educational agency. The local educational agency may submit a separate report, including comments on the report submitted by the committee.

"SEC. 9009. LOCAL USES OF FUNDS.

"(a) DEVELOPMENT OF PLAN.—A local educational agency which receives a subgrant under this title shall use the funds for the purpose of district-wide reform, consistent with the State and local plans. Activities authorized under this section are—

"(1) the development and implementation of the local plan;

"(2) New American Schools which reflect the best available knowledge regarding teaching and learning for all students in public schools, which use the highest quality in-

structional materials and technologies, and which are designed to meet national, State, and local educational goals as well as the particular needs of their students and communities;

"(3) choice programs consistent with State law and State constitutions which permit parents to select the school their children will attend;

"(4) systems such as merit schools which reward public schools with students who, as a group, demonstrate improved performance on curriculum related outcome measures accepted by the States or developed in the State assessment process;

"(5) activities that supplement early childhood education programs and increase the readiness of young children to learn;

"(6) site-based management which places maximum decisionmaking authority at the individual school level and that, at a minimum, involves teachers and other professional staff;

"(7) activities which maximize parental involvement in improving the education of their children;

"(8) coordination of health and social services with education;

"(9) planning to improve the use of technology in schools;

"(10) development or adoption, with substantial involvement of principals, teachers, and other administrators, of curricula, instructional materials, and assessment instruments which are consistent with State frameworks and local goals.

"(11) other school reform activities which will bring about comprehensive school improvement through systemic change in the local educational agency; and

"(b) INVOLVEMENT OF PRINCIPALS AND TEACHERS.—A local educational agency shall involve teachers and school principals in the development, operation, and evaluation of activities assisted by funds provided under this title.

"SEC. 9010. AUTHORIZATION OF APPROPRIATIONS.

"For the purpose of carrying out this title, there are authorized to be appropriated $700,000,000 for the fiscal year 1992, and such sums as may be necessary for each of the fiscal years 1993 through 2001.

"SEC. 9011. ALLOTMENT OF FUNDS.

"(a) TO STATES.—(1) From funds appropriated under section 9010, the Secretary shall allot to the Secretary of the Interior for each fiscal year an amount equal to ½ of 1 percent of the funds appropriated, not to exceed $2,000,000 in any fiscal year, to benefit Indian students enrolled in schools funded by the Department of the Interior for Indian students. The provisions of subsection (b) of this section shall not apply to payments made under this paragraph.

"(2) From the remaining amount appropriated under section 9010, the Secretary shall make annual grants to States with approved applications based upon the formula established in part A of chapter 1 of title I of this Act.

"(b) MATCHING REQUIREMENT.—(1) The Federal share under this title may not exceed—

"(A) 100 percent of the total cost of a program for the first year for which a State receives funds under this title;

"(B) 85 percent of the total cost of a program for the second year for which a State receives funds under this title;

"(C) 60 percent of the total cost of a program for the third year for which a State receives funds under this title;

"(D) 45 percent of the total cost of a program for the fourth year for which a State receives funds under this title; and

"(E) 33 percent of the total cost of a program for the fifth and any succeeding year for which a State receives funds under this title.

"(2) The remaining cost of a program that receives assistance under this title shall be paid by the State from State funds and may include contributions from the private sector.

"(3) The share of payments from sources other than funds appropriated under this title may be in cash or in kind fairly evaluated.

"(4) The requirements of this subsection shall not apply to the Virgin Islands, the Commonwealth of Puerto Rico, or Pacific outlying areas.

"(c) MAINTENANCE OF EFFORT.—A State is entitled to receive its full allotment of funds under this section for any fiscal year if the Secretary finds that either the combined fiscal effort per student or the aggregate expenditures within the State with respect to the provision of free public education for the preceding fiscal year was not less than 90 percent of such combined fiscal effort or aggregate expenditures for the second preceding fiscal year.

"(d) ADMINISTRATIVE COSTS.—From its annual allotment, a State may reserve for administration (not to include the activities of the panel) an amount not to exceed 4 percent or $250,000, whichever is greater.

"(e) ASSURANCES AND TERMS.—(1) The funds allotted to the Secretary of the Interior under subsection (a)(1) shall be made in a payment which shall be pursuant to an agreement between the Secretary and the Secretary of the Interior containing such assurances and terms as the Secretary determines will best achieve the purposes of this title. The agreement shall contain an assurance that—

"(A) a panel, as set forth in paragraph (2) of this subsection, shall be established;

"(B) a plan as required in section 9006 shall be developed by such panel; and

"(C) the provisions and activities required under sections 9006 and 9007 shall be carried out in the same time frames stipulated for the States in those sections, provided that the term 'local educational agencies' shall be interpreted to mean 'schools funded by the Bureau of Indian Affairs'.

"(2) To carry out the provisions of this title, and to develop the plan required under the agreement with the Secretary required in paragraph (1), the Secretary of the Interior shall establish a panel coordinated by the Assistant Secretary of the Interior for Indian Affairs to develop a system-wide reform plan. Such panel shall consist of—

"(A) the Assistant Secretary of the Interior for Indian Affairs (or designee);

"(B) the chairpersons and ranking minority members of the Committee on Education and Labor of the House of Representatives and the Select Committee on Indian Affairs of the Senate (or their designees);

"(C) the Director of the Office of the Indian Education Programs of the Bureau of Indian Affairs and such heads of divisions in such office as the Director shall designate;

"(D) a representative nominated by each of the following—

"(i) the organization representing the majority of teachers and professional personnel in Bureau-operated schools;

"(ii) the organization representing the majority of nonteaching personnel in Bureau-operated schools, if not the same organization as in clause (i);

"(iii) school administrators of Bureau-operated schools;

"(iv) education line officers located in Bureau area or agency offices serving elementary or secondary programs;

"(v) the organization representing the majority of Bureau-funded contract or grants schools not serving students on the Navajo reservation;

"(vi) the organization representing the majority of Bureau-funded contract grants schools serving students on the Navajo reservation;

"(vii) the organization representing the school boards required in Bureau-operated schools, not serving students on the Navajo reservation; and

"(viii) the organization representing the school boards required in Bureau-operated schools, serving students on the Navajo reservation.

"In addition, the members of the panel stipulated above shall designate for full membership 3 tribal chairmen (or designees) or representatives of 3 national organizations which primarily represent national Indian education concerns, or a combination of these 2 classes, provided that the National Advisory council on Indian Education, established under the Indian Education Act of 1972, Public Law 92-318 (as amended), shall not be included as an organization for consideration under this provision.

"SEC. 9012. AVAILABILITY OF INFORMATION AND TRAINING.

"(a) INFORMATION AND TRAINING.—Proportionate to the number of children in a State or in a local educational agency who are enrolled in private elementary or secondary schools—

"(1) a State educational agency or local educational agency which uses funds under this title to develop goals, curricular frameworks, curricular materials, and assessments shall, upon request, make information related to such goals, frameworks, materials, and assessments available to private schools; and

"(2) a State educational agency or local educational agency which uses funds under this title for teacher and administrator training shall provide in its plan for the training of teachers and administrators of private schools located in the geographical area served by such agency.

"(b) WAIVER.—If, by reason of any provisions of law, a State or local educational agency is prohibited from providing for the equitable participation of teachers and administrators from private schools in training programs assisted with Federal funds provided under this title, or if the Secretary determines that a State or local educational agency has substantially failed or is unwilling to provide for such participation, the Secretary shall waive such requirements and shall arrange for the provision of training consistent with State goals and curricular frameworks for such teachers and administrators. Such waivers shall be subject to consultation, withholding, notice, and judicial review in accordance with section 1017 of this Act.

"SEC. 9013. ANNUAL PROGRESS REPORTS: TECHNICAL ASSISTANCE.

"(a) ANNUAL REPORT.—A State which receives funds under this title shall annually report to the Secretary—

"(1) regarding such State's progress in meeting its goals and plan;

"(2) describing proposed activities for the succeeding year; and

"(3) describing Federal regulations which may impede reform activities under this title as described in local plans approved by the State.

"(b) ADDITIONAL REPORT; TECHNICAL ASSISTANCE.—(1) Each State which receives

funds under this title shall submit to the Secretary a biennial report on revenues available to, and expenditures by, each local educational agency in the State during the second preceding year. This report shall be developed in accordance with data definitions developed and published by the National Center for Education Statistics, and shall include at least the following information for each local educational agency within the State—

"(A) sources of revenues, identified by level of government and type in the case of taxes;

"(B) types of educational services offered;

"(C) pupil enrollment, average daily attendance, and average daily membership;

"(D) demographic information on student population;

"(E) type and responsibilities of each local educational agency, including a description of grade levels served; and

"(F) age and condition of facilities, including the percent of budget expended for maintenance and operation.

"(2) After submission of the first biennial report under paragraph (1), a State, using data and definitions developed by the National Center on Education Statistics, shall include in each subsequent biennial report for each local educational agency the following information:

"(A) tax assessment rates, policies, and practices;

"(B) the ability of such local educational agency to raise additional revenues; and

"(C) the costs of providing elementary and secondary education services.

"(3) The report required by this subsection shall also contain a detailed description of the State's school finance programs including each program's—

"(A) purpose;

"(B) eligibility criteria;

"(C) sources of revenue;

"(D) aggregate level of funding;

"(E) mechanism or formula for distributing funds among local educational agencies; and

"(F) restrictions on use of funds.

"(4) In developing data definitions under this subsection, the National Center for Education Statistics shall consult with individuals knowledgeable in the field of education finance.

"(5) Each State shall make its first report to the Secretary under this subsection not later than two years after the date that the Secretary initially allots funds under section 9011.

"(c) TECHNICAL ASSISTANCE.—The Secretary shall provide technical assistance, either directly by grant or by contract, to the States to assist them in complying with the requirements of this section.

"(d) DATA REVIEW.—The National Center for Education Statistics shall review these data from reports compiled under this section to determine adherence to the definitions required in subsection (b) before it is submitted for policy analysis by the National Academy of Sciences under subsection (c) of section 9014. The National Center for Education Statistics shall forward to the Secretary and the National Academy of Sciences any discrepancies it determines between the data and the definitions and any corrections necessary to achieve consistency in the data, particularly as it relates to differences in data of the various States.

"SEC. 9014. EVALUATION AND DISSEMINATION.

"(a) EVALUATION.—The Secretary shall evaluate a representative sample of such State and local reform efforts over the course of the 10-year authorization in order to assess the effectiveness of such plans and activities in improving the education performance of all children. Such evaluations shall specifically examine the effects of such activities on disadvantaged students. The Secretary may reserve up to ¾ of one percent of the appropriations for this title to carry out this section provided that ½ of one percent of such appropriation shall be reserved for technical assistance under section 9013(c) and for subsection (c) of this section.

"(b) DISSEMINATION.—The Secretary shall, annually and upon request, disseminate to the States information on approaches and materials developed under this title or through related efforts.

"(c) CONTRACT FOR STATISTICAL AND POLICY ANALYSIS.—(1) The Secretary shall provide, through a contract with the National Academy of Sciences, for the preparation of a statistical and policy analysis of school finance and related data reported by the States under section 9013(b). Such analysis shall—

"(A) address disparities in educational expenditures and the reasons for such disparities among local educational agencies in each State and among States across the Nation; and

"(B) describe the degree to which the data reported by States under section 9013 was useful in its preparation.

"(2) In conducting such analysis, the National Academy of Sciences shall use statistical methods generally accepted by school finance specialists, and shall develop model State school finance programs based on generally accepted concepts of equalized school finance programs. Such models shall take into consideration a variety of factors, including—

"(A) State and local variations in student demographics and needs, and the costs of meeting such needs;

"(B) adequacy of resources;

"(C) ability and willingness of States and local educational agencies to raise additional revenues; and

"(D) costs of providing educational services.

"(3) Not later than three years following the date that the Secretary makes the first allotment of funds to States under section 9011, the National Academy of Sciences shall provide a report containing the information required by this subsection to the Chairpersons of the Committee on Education and Labor of the House of Representatives and the Committee on Labor and Human Resources of the Senate and to the Secretary. The Secretary shall expeditiously make such report available to States and, upon request, to the public.

"(4) The Secretary, upon request, shall provide, either directly or by contract, technical assistance to States which endeavor to implement a model school finance program developed by the National Academy of Sciences under this subsection.

"SEC. 9015. REPORT TO CONGRESS.

"The Secretary shall submit annually to the chairperson of the Committee on Education and Labor of the House of Representatives and the Committee on Labor and Human Resources of the Senate a report that contains—

"(1) a description of the progress that States receiving funds under this title have made in developing and implementing their plans;

"(2) information from State and local reports regarding requirements in Federal law or regulation which have been identified by States and local educational agencies as impeding the system-wide reform schools under this title; and

"(3) a list by State of average per pupil expenditures reflecting the most recent data reported under section 9013(b) and reviewed under section 9013(d).

"SEC. 9016. GENERAL PROVISIONS.

"Nothing in this title shall—

"(1) supersede State law; or

"(2) be construed to authorize any department, agency, officer, or employee of the Federal Government to—

"(A) exercise any control over the curriculum, program of instruction, administration or personnel of any educational institution or school system; or

"(B) prescribe the use of a particular examination or standards.

"SEC. 9017. DEFINITIONS.

"For purposes of this title:

"(1) The term "assessment system" means a system for measuring the abilities and academic achievement of students that is based upon a set of curricular frameworks and the expected outcomes embodied therein.

"(2) The term "curricular framework" means a description, in a particular subject area, of the knowledge and skills children should acquire at each grade level.

"(3) The term "Pacific outlying area" means American Samoa, Guam, the Commonwealth of the Northern Mariana Islands, and the Republic of Palau (until such time as the compact of Free Association is ratified.

"TITLE X—FLEXIBILITY TO IMPROVE EDUCATIONAL ACHIEVEMENT

"SEC. 10001. PURPOSE.

"It is the purpose of this title to allow States, local educational agencies, and schools the flexibility to use and combine Federal, State, and local funds as part of systemic educational reform plans to improve the educational achievement of elementary and secondary school students by waiving certain statutory and regulatory requirements.

"SEC. 10002. PROGRAM AUTHORIZED.

"(a) EDUCATION PROGRAMS.—The Secretary of Education is authorized to waive certain statutory and regulatory requirements (except as provided in section 10004) for States that can demonstrate that such waivers are part of a systemwide education reform plan and where such States and local educational agencies have implemented similar waiver plans.

"(b) ADDITIONAL PROGRAMS.—Waivers may also be requested for requirements regarding the following programs:

"(1) The Head Start Act.

"(2) The Runaway and Homeless Youth Act.

"(3) The Juvenile Justice and Delinquency Prevention Act.

"(4) The National School Lunch Act.

"(5) The School Breakfast Program.

"(6) The Child and Adult Care Food Program.

"(7) The Special School Milk Program.

"(8) The Summer Food Service Program.

"(9) The Community Services Block Grant Program.

"If such waivers are requested, the Secretary shall consult with the heads of other appropriate Federal agencies, if any, in determining whether to approve a project. The Secretary shall obtain the approval of such agency head as part of final approval of such project.

"SEC. 10003. APPLICATIONS.

"(a) GENERAL REQUIREMENTS.—A school, local educational agency, or State that de-

sires to receive a waiver under this part shall—

"(1) indicate which requirements are to be waived and how waiving such requirements is an integral part of the systemic reform plan and will improve educational achievement among students;

"(2) identify the Federal programs to be included in the project;

"(3) indicate which State and local requirements shall be waived;

"(4) describe specific, measurable educational improvement goals and expected outcomes;

"(5) describe methods to be used to measure progress toward meeting such goals;

"(6) describe the student population at proposed schools, including—

"(A) current data regarding the achievement levels of students, particularly disadvantaged students;

"(B) the number of students who—

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

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

"(iii) are currently or within the past 5 years were migratory;

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

"(v) are eligible for a free or reduced-price lunch.

"(b) ADDITIONAL REQUIREMENTS.—The Secretary of Education may include additional requirements as may reasonably be required.

"(c) INDIVIDUAL SCHOOL APPLICATIONS.—A local school that desires to receive a waiver under this title shall submit an application to the local education agency, which shall submit such application to the State education agency.

"(d) LOCAL APPLICATIONS.—(1) A local educational agency that desires to receive a waiver under this title shall submit an application to the State educational agency.

"(2) A State educational agency that approves an application submitted by a local education agency shall forward such application to the Secretary of Education for consideration, unless such application requires waivers for programs other than education programs.

"(3) An application that requests a waiver for a program other than an education program shall be submitted to the chief executive of the State and such executive shall forward such application to the Secretary.

"(e) STATE APPLICATIONS.—(1) A State educational agency that desires to receive a waiver under this title shall submit an application to the Secretary for consideration, unless such application requires waivers for other than education programs.

"(2) Such application shall be submitted to the chief executive of the State for review before forwarding such application to the Secretary.

"SEC. 10004. WAIVER RESTRICTIONS.

"Requirements which shall not be waived include—

"(1) requirements governing fund allocations;

"(2) requirements governing privacy of pupil records;

"(3) requirements under title VI of the Civil Rights Act of 1964;

"(4) provisions of section 504 of the Rehabilitation Act of 1973;

"(5) provisions of title II of the Americans with Disabilities Education Act;

"(6) requirements of title IX of the Education Amendments of 1972;

"(7) requirements governing pupil rights under the Individuals with Disabilities Act; and

"(8) requirements governing—

"(A) maintenance of effort;

"(B) comparability; or

"(C) the equitable participation of students attending private schools.

"SEC. 10005. EVALUATIONS AND TECHNICAL ASSISTANCE.

"(a) LOCAL EVALUATION.—Three years after a waiver is given to a local educational agency, the Secretary of Education shall evaluate the effectiveness of such waiver in achieving education reform and raising student achievement.

"(b) TECHNICAL ASSISTANCE.—If the Secretary determines that progress in achieving educational reform is not satisfactory, the Secretary may provide technical assistance to a local educational agency.

"(c) TERMINATION.—If the Secretary determines that the technical assistance does not improve educational reform efforts, the Secretary may terminate any waivers previously granted.

"(d) NATIONAL EVALUATION.—Five years after the flexibility program is implemented and at the end of every succeeding five-year period, the Secretary shall evaluate the effectiveness of the flexibility program nationwide. The findings of such evaluation shall be submitted to the Congress not later than 120 days after such evaluation is completed.

"SEC. 10006. REPORTS.

"(a) LOCAL REPORTS.—A local educational agency or school that participates in a flexibility project under this title shall submit an annual report to the State educational agency that—

"(1) describes project activities;

"(2) evaluates the progress in achieving the goals stated in the application; and

"(3) evaluates the effectiveness of coordinating services for students and their families.

"(b) STATE REPORTS.—A State that participates in a flexibility project under this title shall submit an annual report to the Secretary of Education which evaluates the progress in achieving goals stated in the application.

"(c) SECRETARY REPORTS.—The Secretary of Education shall submit to the Congress a biennial report regarding the national progress of flexibility programs and the effect of such programs on educational reform.

"TITLE XI—NEW AMERICAN SCHOOLS

"SEC. 11001. STATEMENT OF FINDINGS.

"The Congress finds that—

"(1) many American elementary and secondary schools—

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

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

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

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

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

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

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

"SEC. 11002. PURPOSE.

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

"(b) SYSTEMIC REFORM.—In order to carry out this purpose, this title authorizes financial assistance for New American Schools in communities that have undertaken systemic education reform.

"SEC. 11003. ALLOCATION OF FUNDS.

"(a) RESERVATION FOR EVALUATION.—From the amount of funds appropriated to carry out this title for fiscal years 1993, 1994, and 1995, the Secretary shall reserve a total of up to $3,000,000 for a national program evaluation.

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

"SEC. 11004. STATE APPLICATIONS.

"In order for a State to qualify for its allocation under section 11003(b), the Governor and chief State school officer, where permitted by State law and constitution, shall submit an application at such time as the Secretary may determine, including—

"(1) a description of the process the Governor and chief State school officer have used, in accordance with section 11005, to nominate local educational agencies in consortia with businesses and other community organizations to create New American Schools;

"(2) a list of the local educational agencies nominated by the Governor and chief State school officer, to receive a New American School grant;

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

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

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

"SEC. 11005. SELECTION OF LOCAL EDUCATIONAL AGENCIES TO CREATE NEW AMERICAN SCHOOLS.

"(a) NOMINATION.—The Governor of each State and the chief State school officer shall nominate for a New American School grant only local educational agencies within the State that have undertaken or are planning to undertake systemic education reform.

"(b) DELEGATION AND DISTRICT NOMINATIONS.—In carrying out subsection (a), each Governor and chief State school officer shall nominate—

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

"(2) at least one local educational agency in each congressional district in the State.

"(c) SELECTION CRITERIA.—Each Governor and chief State school officer shall nominate local educational agencies on the basis of criteria established by the Secretary, based on the advice of the panel of experts established under section 11007, including, at a minimum—

"(1) the level of commitment and activity displayed by the community to undertake systemic education reform and meet the national education goals;

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

"(3) the quality of the application submitted by the applicant to the Governor and chief State school officer.

"(d) MEETING REQUIREMENTS.—(1) The Secretary, in consultation with of the panel of experts established under section 11007, shall approve some or all of the local educational agencies nominated by each Governor and chief State school officer to receive New American School grants based on the Secretary's determination that such approval would be fully consistent with the purpose and requirements of this title.

"(2) The Secretary shall ensure that—

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

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

"(e) ADDITIONAL RECIPIENTS.—The Governor and chief State school officer may nominate other local educational agencies or recipients if—

"(1) the Secretary does not approve one or more of the State's nominees after such nominees have been provided with a notice of disapproval and an opportunity to receive technical assistance and resubmit their proposal;

"(2) an approved local educational agency withdraws from the program; or

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

"SEC. 11006. AMOUNT OF AWARDS, OPERATION OF SCHOOLS, AND USES OF FUNDS.

"(a) GRANT AWARDS.—(1) The Secretary shall make grants for New American Schools to local educational agencies selected by the Secretary under section 11005(d).

"(2) The Secretary, after consultation with the Governor and chief State school officer, shall determine the total amount of each award under this title, except that—

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

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

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

"(c) STARTUP COSTS.—(1) Funds made available under this title may be used only to meet the special startup costs associated with the creation and establishment of a New American School, including—

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

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

"(C) purchase of equipment and materials;

"(D) minor renovation and remodeling of facilities; and

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

"(2) Such funds may not be used for—

"(A) construction;

"(B) the grantee's general administrative expenses; or

"(C) the establishment or support of a private school.

"(d) RECOGNITION OR ACCREDITATION.—Each New American School shall have obtained State recognition or accreditation, as necessary, and be fully operating by the start of the 1997-1998 school year.

"SEC. 11007. SECRETARY'S PANEL OF EXPERTS.

"Not later than 90 days after the date of the enactment of this Act, the Secretary shall convene an expert panel of educators, representatives of private business, and public representatives regarding the administration of the program authorized by this title, including—

"(1) the criteria to be used to nominate local education agencies for New American Schools; and

"(2) the approval of local educational agencies nominated by Governors and chief State school officers to establish, operate and receive grants for New American Schools.

"SEC. 11008. NATIONAL EVALUATION.

"(a) IMPACT.—The Secretary shall use the funds reserved under section 11003(a) to conduct a national evaluation of the impact of the New American Schools program on schools and communities, and on education generally.

"(b) REPORTS.—The Secretary shall submit such interim evaluation reports to the President and the Congress as may be appropriate, and shall submit a final report by September 30, 1999.

"SEC. 11009. AUTHORIZATION OF APPROPRIATIONS.

"For the purpose of carrying out this title, there are authorized to be appropriated $100,000,000 for fiscal year 1993, $200,000,000 for fiscal year 1994, and $300,000,000 for fiscal year 1995. Such sums shall remain available for obligation by the Secretary for 2 fiscal years beyond the fiscal year for which they are appropriated.

"SEC. 11010. DEFINITIONS.

"For the purpose of this title—

"(1) the term "community" means—

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

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

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

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

"(3) the term "New American School" means a school that—

"(A) provides elementary or secondary education, as determined under State law;

"(B) reflects the best thinking about teaching and learning;

"(C) employs the highest-quality instructional materials and technologies;

"(D) is designed to meet the national education goals, as well as the particular needs of the students and communities it serves;

"(E) provides regular reports to the community on the achievement of its students; and

"(F) meets all State and local health and safety requirements; and

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

"TITLE XII—MENTOR PROGRAM

"SEC. 12001. PURPOSE.

"The purpose of this title is to improve academic performance and reduce the dropout rate of students through the use of mentors for at-risk students.

"SEC. 12002. ELIGIBLE ENTITIES.

"(a) IN GENERAL.—To be eligible to receive a grant under this title, a local educational agency or elementary or secondary school must submit an application to the Secretary of Education in such form and containing such information that the Secretary may reasonably require.

"(b) REQUIREMENTS.—Each application under subsection (a) shall include—

"(1) an assurance that 60 percent or more of the students are eligible to receive funds under chapter 1 of the Elementary and Secondary Education Act of 1965;

"(2) systematic education reform efforts are being made.

"(3) a provision for a mechanism for matching youth with mentors based on the needs of the child;

"(4) an assurance that no mentor would be assigned to more than one child to insure a one-on-one relationship;

"(5) an assurance that projects operated in secondary schools shall provide students with a variety of experiences and support, including—

"(A) an opportunity to spend time in a work environment and, when possible, participate in the work environment;

"(B) an opportunity to witness the job skills which will be required to students to obtain employment upon graduation;

"(C) assistance with homework assignments; and

"(D) exposure to experiences students might not otherwise encounter.

"(6) an assurance that projects operated in elementary schools will provide students with—

"(A) academic assistance;

"(B) exposure to new experiences and activities students might not encounter on their own; and

"(C) emotional support;

"(7) an assurance that projects shall be monitored to ensure a student is benefiting from a mentor relationship with the provision for a new mentor assignment if such relationship is not beneficial to the child; and

"(8) allowance for the use of older youth as mentors to younger children, particularly if a child has limited English proficiency and

can be matched with an older child who can assist the younger child in improving literacy skills and assist with classwork assignments.

"SEC. 12003. AWARD OF GRANTS.

"(a) SELECTION CRITERIA.—The Secretary shall consider the following factors in awarding grants to local educational agencies:

"(1) The number of students who are eligible for funds under chapter 1 of the Elementary and Secondary Education Act of 1965.

"(2) The efforts made to develop and initiate systemic education reform.

"(3) The geographic distribution (urban and rural) of applicants.

"(b) GRANT PERIOD.—Grants awards under this title shall be awarded for a three-year period.

"SEC. 12004. REPORTS.

"(a) REPORTS TO SECRETARY.—Local educational agencies and schools that receive grants under this title shall submit an annual report to the Secretary of Education regarding the progress of students served under a mentor demonstration project, including:

"(1) the number and percentage of ethnic and minority students served;

"(2) the number and ages of all students served;

"(3) academic progress of all students participating.

"(4) the number of ethnic and minority individuals participating as mentors in the project; and

"(5) Community support for the project.

"(b) REPORT TO CONGRESS.—Not later than 120 days after completion of the 3-year grant cycle, the Secretary shall submit to the Congress a report regarding the success and effectiveness of the demonstration program.

"SEC. 12005. DEFINITIONS.

"For purposes of this title—

"(1) the term "at-risk student" means a student at risk for educational failure or dropping out of school; and

"(2) the term "mentor" means an individual who works with an at-risk students on a one-to-one basis, establishing a supportive relationship with such students, and providing them with academic assistance and exposure to new experiences which enhance their ability to succeed academically and become good citizens.

"SEC. 12006. AUTHORIZATION OF APPROPRIATIONS.

"There are authorized to be appropriated $10,000,000 for fiscal year 1993 and such sums as may be necessary for each of the fiscal years 1994 and 1995."

SEC. 3. LIMITATION.

None of the appropriations made pursuant to authorizations contained in the amendments made by this Act may be used to provide contraceptive devices or to provide abortion counseling.

The CHAIRMAN. Pursuant to the order of the House of today, the gentleman from Pennsylvania [Mr. GOODLING] will be recognized for 20 minutes, and a Member opposed, the gentleman from Michigan [Mr. KILDEE], will be recognized for 20 minutes.

The Chair recognizes the gentleman from Pennsylvania [Mr. GOODLING].

Mr. GOODLING. Mr. Chairman, I yield 3 minutes to the distinguished gentleman from Nebraska [Mr. BARRETT], a member of the Committee on Education and Labor.

Mr. BARRETT. Mr. Chairman, because I really want educational change, I rise in support of the Goodling substitute to H.R. 4323, a bill euphemistically titled the "Neighborhood Schools Improvement Act". Let's make no mistake, H.R. 4323 is wrapped in a thin veil of education reform, but it wears the heavy cloak of business as usual, and is draped with special provisions and protections to keep special interests warm, while kicking our children out into the cold.

The House Education and Labor Committee's journey through education reform at the beginning of this session started and, I thought, ended as a bipartisan effort when we reported H.R. 3320, or what we are looking at today as the Goodling substitute. H.R. 3320 is the only major bipartisan education bill that the committee reported out during this session. And I had thought the committee had decided that it wanted a bill, rather than an election year issue.

In fact, I received a letter from the Nebraska Department of Education, in which they stated that H.R. 3320 "provided critical assistance to the Nebraska Department of Education and the local schools to plan together and undertake systemwide reform."

I was pretty enthused about this bipartisan bill and looked forward to passing a bill that the President would probably sign. It included things that I supported, and also included some things I have serious problems with.

But what is the overarching component of the Goodling amendment that I find the most attractive? Pure and simple, it is local control.

It allows local business, education, and civic leaders a limitless chance at looking at their schools and seeing where they are deficient, make meaningful recommendations that must be approved by the local school board, before they can be forwarded to the State.

H.R. 4323, on the other hand, cripples this local panel by making it yet another advisory committee to the school board. The panel's initiatives can be amended to death by the school board and then sent onto the State.

As a former school board member, I only wish that I had the flexibility and freedom to look at our local school and make meaningful changes—as envisioned in the Goodling amendment—rather than being constrained by Federal and State bureaucrats who knew little of the needs of my local community.

The Goodling amendment also includes the four-letter word for the education community, the word is "choice."

I do not swallow the idea that "choice" in education is the answer to education improvement that the proponents claim—it may very well be part of the answer, but it is not the complete answer.

If State law allows, it should be reserved as an option for the local panel and school board to consider. And, if we can't have the confidence and trust, that our local community leaders have the sense and judgment to make these kinds of decisions, then our education system is in sorry shape.

This Congress must have that confidence and trust in our local leaders if education reform is to get off the ground. After all, if there is to be fundamental education reform, the ones that will be taking the risks for the sake of our children's futures, will be the local leaders, not Congressmen and women, or Senators, or Presidents.

In conclusion, I hope that Members too will support the Goodling amendment. It provides our children with a real chance to succeed; not to remain in the dark shadow of special interests who clamor for change, but then clam up when it comes time for enacting those changes.

Mr. Chairman, I reserve the balance of my time.

Mr. KILDEE. Mr. Chairman, I rise in opposition to the amendment.

I have obviously reviewed the gentleman's amendment and there are parts of it which he knows I like very much.

However, there remain significant differences between us, and I, for that reason, must oppose the amendment.

Rather than the cautious approach to education standards and testing proposed in H.R. 4323, the substitute takes a much more aggressive stance in that area.

The notion of a system of assessments with Federal Government involvement is unprecedented in American education even though the gentleman's proposal is more thoughtful than many that have been proposed, we do not have enough information to safely establish all phases of a system of national education assessments at this point.

H.R. 4323 proceeds more cautiously by authorizing the development and evaluation of model mathematics assessment over a 2-year period.

At the end of 2 years we will have better information on the model assessments as well as on national education standards being developed in other subject areas.

With that information then, we can then make more informed decisions on how or whether the Federal Government should proceed in the area of assessment.

At this time I also am concerned over the Regulatory Flexibility Provisions in the substitute offered by the gentleman from Pennsylvania [Mr. GOODLING], an area where both of us hope to make some progress, but I at this point have some concern.

As I said, I share the gentleman's concern over the need for more flexibility, and he and I discussed this over a number of years, and I hope to address

this issue further during the reauthorization of the Elementary and Secondary Education Act in the next Congress.

However, instead of a demonstration program targeted at improving services to disadvantaged children, the regulatory flexibility provisions in the Goodling substitute would establish a permanent authority for the waiver of many statutory and regulatory requirements.

Twenty-seven national organizations representing the disability community oppose the substitute offered by the gentleman from Pennsylvania [Mr. GOODLING] because of the waivers it will permit under the Individuals with Disabilities Act, and, Mr. Chairman, I include for the RECORD a letter from the Consortium for Citizens with Disabilities opposing the Goodling substitute.

The letter referred to is as follows:

CONSORTIUM FOR CITIZENS WITH DISABILITIES,
August 12, 1992.

Hon. WILLIAM D. FORD,
Chairman, Committee on Education and Labor, Rayburn House Office Building, Washington, DC.

DEAR CONGRESSMAN FORD: The Education Task Force of the Consortium for Citizens with Disabilities writes to urge you and your colleagues to defeat the Goodling Amendment to H.R. 4323, the Neighborhood Schools Improvement Act. This amendment is scheduled to be considered on the floor of the House today.

The Consortium for Citizens with Disabilities is a working coalition of numerous national advocacy, consumer, professional and provider organizations who advocate on behalf of our nation's citizens with disabilities. CCD recognizes that Part B of the Individuals with Disabilities Education Act, commonly known as P.L. 94-142, is one of the most cherished and important federal laws serving children with disabilities. This law established the right to a free, appropriate public education (FAPE) for students with disabilities and contains several vital provisions, which, taken together, guarantee FAPE for all eligible students. Another key provision of IDEA is the Part H Early Intervention Program for Infants and Toddlers. Part H authorizes new comprehensive, statewide efforts to serve all children with disabilities from birth through 2 years of age. The CCD has fought off a number of legislative and regulatory attempts to weaken or eliminate key provisions of P.L. 94-142 since its enactment in 1975.

One aspect of the Goodling Amendment would again place Parts B and H of IDEA under serious jeopardy. Under the amendment's waiver provision (Section 10002), the Secretary of Education would be authorized to waive certain statutory and regulatory requirements of numerous federal programs, including IDEA. Another section within the amendment (Section 10004) would restrict waivers "governing pupil rights" under IDEA. Although we recognize that Congressman Goodling's intent is to improve special and other education programs, the proposed language to restrict allowable waivers under IDEA is insufficient to fully protect students with disabilities. The proposed language is subject to too much interpretation by school officials, the federal government and other interested parties.

While the undersigned organizations continue to seek out and participate in education reform leading to better outcomes for students with disabilities, we are simply unable to support this approach. Thus we urge all members of the House to oppose this amendment.

American Association of University Affiliated Programs.
American Association on Mental Retardation.
American Council of the Blind.
American Speech-Language-Hearing Association.
Association for Education & Rehabilitation of the Blind & Visually Impaired.
Autism National Committee.
Child Welfare League of America.
Children with Attention Deficit Disorders.
Conference of Educational Administrators Serving the Deaf.
Convention of America Instructors of the Deaf.
Council for Exceptional Children.
Council of Organizational Representatives Serving the Deaf.
Council of State Administrators of Vocational Rehabilitation.
Epilepsy Foundation of America.
Federation of Families for Children's Mental Health.
Learning Disabilities Association.
Mental Health Law Project.
National Association for Music Therapy.
National Association of Developmental Disabilities Councils.
National Association of Private Residential Facilities.
National Association of Protection and Advocacy Systems.
National Association of State Directors of Special Education.
National Center for Learning Disabilities.
National Council on Rehabilitation Education.
National Easter Seal Society.
National Mental Health Association.
The Arc, formerly the Association for Retarded Citizens.
The Association of Persons with Severe Handicaps.
United Cerebral Palsy Associations, Inc.

The substitute also provides for a separate authorization for the development of new American schools.

New American schools are already an allowable use of funds as part of a local systemic reform plan under H.R. 4323.

A duplicative authority for this purpose is unnecessary.

Finally, the substitute would eliminate the provision in H.R. 4323 which would make meeting school delivery standards an allowable use of funds, and I think since all these standards, all the assessments, are voluntary, we should at least have as an allowable activity school delivery standards rather than just standards for students. We need some school delivery standards to find out whether the student is failing or whether the school is failing.

□ 1330

This provision removes from the bill an important means of ensuring that all children have a fair opportunity to learn.

For these reasons, although there are many good provisions in the bill and many that the gentleman from Pennsylvania [Mr. GOODLING] and I have worked on through the years, for these reasons I urge strongly the defeat of the Goodling substitute.

Mr. GOODLING. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, there were those who went out and tried to stir up the disability community and had them write a letter many Members received which had nothing to do with reality. I would like to include for the RECORD the information sent out.

One aspect of the Goodling Amendment would again place Parts B and H of IDEA under serious jeopardy. Under the amendment's waiver provision (Section 10002), the Secretary of Education would be authorized to waiver certain statutory and regulatory requirements of numerous federal programs, including IDEA. Another section within the amendment (Section 10004) would restrict waivers "governing pupil rights" under IDEA. Although we recognize that Congressman Goodling's intent is to improve special and other education programs, the proposed language to restrict allowable waivers under IDEA is insufficient to fully protect students with disabilities. The proposed language is subject to too much interpretation by school officials, the federal government and other interested parties.

Mr. Chairman, if in fact they would have encouraged them to read my legislation, these groups would have discovered their concerns had nothing to do with reality. What they are saying is just the opposite of what those people did at a convention, as a matter of fact, where they said they would like to break the wall between special education, chapter I, and so on.

Mr. Chairman, I have always been a strong supporter of Public Law 94-142, which guarantees a free, appropriate, public education to all children with disabilities and have opposed legislation which would weaken that law. However, this substitute does not weaken any rights for students with disabilities. In fact, section 10004 specifically safeguards all pupil's rights under IDEA. Those rights include:

First, the right to a free, appropriate public education.

Second, the right to an individualized education program.

Third, the right to transition services once the child turns 16.

Fourth, the right to procedural safeguards which include: the opportunity for parents to examine all relevant records with respect to identification, evaluation, and educational placement of their child; confidentiality requirements to protect the child; written notice to parents whenever a change is made regarding identification, evaluation, or educational placement of the child; informing the parent in their native language; and the opportunity for parents to present complaints about the identification, evaluation, or educational placement of their child.

Fifth, the right to an impartial due process hearing.

Sixth, the right to appeal the findings and decision rendered by an impartial hearing to the SEA which must conduct an impartial review of the hearing.

Seventh, the right to be accompanied and advised by counsel and by individuals with special knowledge or training with respect to problems of children with disabilities.

Eighth, the right to bring a civil action with respect to the complaint in any State court or district court of the United States without regard to the amount in controversy.

Ninth, the right of the court to award attorney's fees as part of the costs to the parents of the child with a disability if they are the prevailing party.

As you can see, my substitute does no harm to these important provisions.

Mr. Chairman, I reserve the balance of my time.

Mr. KILDEE. Mr. Chairman, I yield 3 minutes to the gentleman from New Jersey [Mr. ANDREWS].

Mr. ANDREWS of New Jersey. Mr. Chairman, I rise in somewhat reluctant opposition to the substitute offered by the gentleman from Pennsylvania [Mr. GOODLING]. Before I do, I acknowledge with great appreciation the contributions the gentleman has made to assuring full and equal access for special needs students. I also acknowledge the fact that nothing in my opposition to the substitute of the gentleman from Pennsylvania [Mr. GOODLING] goes to his intent in drafting the substitute or supporting it.

Mr. Chairman, my concern is more a matter of practice should the substitute be adopted, and it goes to this point: one of the most difficult, expensive, and unpopular things to do in a local school district, as the offerer of the amendment, the gentleman from Pennsylvania [Mr. GOODLING] well knows, is to promote and support the education of special needs students.

Special needs students and their parents are not a particularly well organized or powerful constituency in many areas of the country. Their concerns are very often less popular and less politically sustainable or less politically appealing than those of other demands that people might make upon a school district or a State.

I am certain that it is for those reasons that the gentleman who offers the amendment has been a leader in assuring rights of those students.

My concern is that a broader waiver provision, whether it is vested in the Secretary of Education or some other official, broadens the temptation and broadens the possibility that the rights that have been vested in the law would not be fully upheld on behalf of the students.

My concern does not rest with the intent of the substitute, it rests with the risk of its operation and practice, and for that reason I would oppose it.

The second reason, to reiterate a point made by the gentleman from Michigan [Mr. KILDEE], is my concern about the degree of support that we are going to demonstrate for national standards or national levels of standards under this bill. I think there is great consensus that there ought to be standards that apply across our schools and across our States. There is certainly not consensus that those standards should be developed by any Federal body, and there is certainly not consensus as to how the standards ought to be tested, evaluated, or taken into account.

The version of this bill put forward by the subcommittee I believe strikes a more appropriate balance between the need for a clear articulation of national standards and the avoidance of the imposition of Federal requirements which may be arbitrary and ill thought out.

Mr. Chairman, for those two reasons I respectfully oppose the substitute, although I extend on my own behalf and I think many others who will oppose this substitute an offer of continued cooperation with the gentleman from Pennsylvania [Mr. GOODLING] so that we can expand upon our areas of common agreement.

The CHAIRMAN. The Chair would announce that the gentleman from Pennsylvania [Mr. GOODLING] has 15 minutes remaining, and the gentleman from Michigan [Mr. KILDEE] has 12 minutes remaining.

Mr. GOODLING. Mr. Chairman, I yield 3 minutes to the gentleman from Missouri [Mr. COLEMAN].

Mr. COLEMAN of Missouri. Mr. Chairman, I want to take this opportunity to rise in strong support of the substitute offered by the ranking member of the Education Committee, Mr. GOODLING.

Unlike the committee bill, which will not revolutionize anything, and which has been characterized as "all cliches and show business," the Goodling substitute embodies the original, bipartisan Kildee-Goodling school reform initiatives in H.R. 3320. This language, which cleared the committee last November, was the result of months of bipartisan negotiations between the administration and the Education and Labor Committee. The Goodling substitute has the full support of the administration, and by offering it today, Mr. GOODLING offers this House the opportunity to vote for real, substantive education reform. This is the President's bill.

Specifically, the Goodling substitute includes many of the President's America 2000 reform oriented strategies. America 2000 is designed to challenge and transform our schools and our attitudes about education by going outside the current system, and promoting more community involvement.

The substitute provides a separate authorization for the New American Schools Program. These proven, break the mold, publicly accountable schools reflect the best and most innovative approaches to teaching, learning, and educational technologies. Under the Goodling language, one of these schools would be funded in every congressional district.

Unlike the committee bill, the language offered by my colleague contains a broad regulatory flexibility proposal to advance student achievement. Specifically, the amendment would allow States, local educational agencies, and schools to combine Federal, State, and local funds to fulfill educational reform plans. Most of the Department of Education's elementary and secondary programs would be covered, and waivers would be available in all schools in all 50 States.

More flexibility and power to engage in real reform would be provided to local education agencies under the substitute than is possible under the committee bill. There has been some discussion today of the issue of school choice: Under the Goodling substitute, choice would be available as a reform option. If the local community, the local school district, and the State agree it should be permitted. Each one of them has a veto over any choice element in the reform plan.

The substitute also recognizes the need to create a system of rigorous voluntary standards and assessments to provide parents with additional information to judge the quality of their childrens' education.

I also want to point out that the substitute calls for a demonstration program to incorporate school with real-life experience through the creation of a mentoring program and requirements for exposure to work environments and new activities. By providing role models, academic encouragement, and motivation for at risk students, the substitute goes far beyond the committee bill. In dealing with our students as whole individuals, not just as faces in the classroom, it assures the success of education reform.

Mr. Chairman, unlike the committee bill, the Goodling substitute provides the authority to truly begin the process of reforming and transforming our Nation's schools. It clearly recognizes the need for vision, for new approaches, for flexibility and accountability at the local, the State and the Federal level.

Its principles have already received the bipartisan support of the Education and Labor Committee, and it has the full support of the President and the Department of Education. I urge my colleagues to vote for the Goodling substitute.

□ 1340

Finally, Mr. Chairman, let me say, how are we to judge? How are we to judge the quality of our children's edu-

cation unless the Goodling substitute is adopted for voluntary standards and assessments?

Mr. KILDEE. Mr. Chairman, I yield 2 minutes to the gentleman from Kentucky [Mr. MAZZOLI].

Mr. MAZZOLI. Mr. Chairman, I thank the gentleman from Michigan for yielding time to me.

I want to rise in support of his bill and with more than a little reluctance to oppose the offering of the gentleman from Pennsylvania.

I want to thank my friend from Michigan [Mr. KILDEE], for his stalwart leadership in education over all the many years he has served in the House and the many years that we have been friends. The state of education in America is much the better for the gentleman's work and support.

But I also want to commend my friend, the gentleman from Pennsylvania [Mr. GOODLING], whose father I served with before he joined Congress. And I would say the same thing, your support on public education both as a professional and now as a Member of Congress has been unsullied and it has been stalwart through the years. I think you make a very sensible and a very attractive offering at this time.

But, because I believe there ought to be a certain amount of additional groundwork and experiment done on the whole question of school choice, whether public school choice or public-private school choice, I will oppose the gentleman's amendment.

I am happy, however, to note that his amendment does include what is in the chairman's bill, which is support for State and local school reform. The bill requires a committee structure which includes the users of education, the providers of education. And it also has support for States like Kentucky, my home State, which has taken national leadership in the whole question of school reform under the Kentucky Education Reform Act.

So I am happy to see that whatever happens in today's vote, that the bill that moves from this House will support States like mine, which at great cost to the States, both financially and politically, have made a move to reform their schools and to try to produce for the year 2000 the kind of students who can handle the jobs that will be required of them and also live the lives that will be required.

There is nothing more important that we in Congress can do than to support the efforts being made at the State and local school district level to reform and improve elementary and secondary education.

There is nothing more important than aiding schools to improve the achievement of all their students.

There is nothing more important than to help schools prepare students for the lives they will lead in the next century and the jobs they will hold in the 2000's.

I would like to single out a few of the many very significant provisions in the bill.

Local communities: The bill requires school districts to establish local committees to develop and implement educational reform plans.

This is a very positive feature, committees must include representatives from local government, school districts, businesses, and interested local citizens.

My home area's school system—Jefferson County public schools which include my hometown of Louisville, KY—already works in concert with the community at large.

H.R. 4323 will encourage these efforts and promote and encourage more of the same kind of cooperation to produce a better form of public education.

Local reform activities: I am pleased that the bill allows school districts to use funds to support reform activities.

The Commonwealth of Kentucky became a national leader in the reform movement with the enactment of the Kentucky Education Reform Act of 1990 [KERA].

Since that time, school districts across the Commonwealth, including the Jefferson County public schools, have gone about the task of implementing the reforms of the landmark KERA legislation.

These reforms represent the dawning of a new day. They represent a fundamental change in the way Kentucky will educate its children.

H.R. 4323 supports these reform activities such as these today being undertaken by school districts such as Jefferson County public schools.

So I want to thank the gentleman from Michigan [Mr. KILDEE] and I urge my colleagues to vote for H.R. 4323.

Mr. GOODLING. Mr. Chairman, I yield 3 minutes to the distinguished gentleman from Wisconsin [Mr. GUNDERSON].

Mr. GUNDERSON. Mr. Chairman, I am delighted to follow my good friend, the gentleman from Kentucky [Mr. MAZZOLI] here to the well, because I think he really articulated what this debate is all about. We have all agreed that if we are going to have school reform, it is going to happen at the local level. It has to happen at the community level.

I do not think there is any disagreement on either side about that. Both bills have the local plan, and even the State plan.

The real issue we have in this substitute is will there be national leadership or will there be national apathy? Do it, if we want; do not do it, if we do not want it.

That is really the issue in the Goodling substitute because unlike the bill that came out of committee, the Goodling substitute says very specifically, we will have the national standards and assessments. It says, we will not have studies. The Goodling bill says, we will have a separate authorization for 21st century schools.

If there is one part of this bill that I think everybody agrees is the real foundation for education reform, it is the 21st century schools, the opportunity for people to break the mold and to create that special school they want in their district.

I have a school in western Wisconsin that is into this project. They said:

> The one thing we don't have, we don't have a school of international education. We don't teach our kids foreign language at the elementary level. We don't teach them metric. We don't teach them world history, world culture. If we are going to have an international economy on the very day that NAFTA is signed, by gosh, we better give our kids an opportunity to have that kind of international education.

That is the 21st century school, my colleagues. That is what the Goodling substitute is all about.

In the area of educational flexibility, last session, Gus Hawkins came to this floor in support of a compromise on educational flexibility that gave communities and schools the chance to come back to us with a plan that, as long as it guaranteed outcomes, as long as it guaranteed no discrimination, that we would allow that school to take those Federal regulations and take those State regulations and put them on the shelf in the interest of a comprehensive, innovative, effective education plan to those local kids.

The Goodling substitute says, "Do it wherever you are. You don't have to be involved in the politics of being one of the 20 schools chosen by your State's chief school officer," as is the word under the Kildee proposal that is in front of us.

And then the issue of choice. The best way to describe choice is that the Goodling substitute represents the Sununu-Ford-Kildee-Goodling agreement on choice, because those were the members that agreed to this provision on the Committee on Education and Labor saying, not like the gentleman from Texas [Mr. ARMEY] said, we are going to mandate choice on everybody, it said, "Let choice be the choice of the local school."

Before I sit down, please, my colleagues, take a good look at the bipartisan Goodling substitute. It came out of committee on a bipartisan vote. This is the real bipartisan education reform bill.

Mr. KILDEE. Mr. Chairman, I yield 3 minutes to the gentleman from Illinois [Mr. HAYES].

Mr. HAYES of Illinois. Mr. Chairman, it is difficult to oppose the Goodling substitute because of my personal feeling toward him. We have done a lot of traveling together, as a member of the committee, in comparing other systems in other countries with our system here to try to see how we can improve our public educational system

here to compare with other countries. And I realize that the bill which we are discussing today is not a cure for all that ails our public educational system.

But let me tell my colleagues that I, frankly, feel that the Goodling substitute certainly does not strengthen our educational system. I think it takes away from what is needed.

I am very concerned about the question of choice, regardless of what form it is proposed, whether it be mandated or optional. I think this is going to be the kind of approach that is going to weaken our public educational system and allow less access to education for our economically disadvantaged students, which are suffering now from a lack of education.

In the State of Illinois, which I come from, more money is spent to educate a kid that lives in the suburbs around Chicago than those that go to school in the inner city of Chicago, where many of our economically disadvantaged kids live.

I want a system which is decaying now, really helped and benefited from what we do here in this Congress. Please, let us not continue to talk about doing less. If we understand the importance of education and what it means to our future, the future of this great Nation, then we put education and its access to all on an equal plateau, where poor kids would have an access to education and be treated in math and science in the same way as the kid who has money.

When we talk about a voucher system, choice, parental choice for education, we are really going to spend money on those schools where the best students go, and those who are poor are given less opportunity for education.

This is why I am really opposed to any mention of any kind of a provision that contains a provision of choice, whether it be mandated or optional.

□ 1350

That is why I vote against it, and I suggest that we oppose the Goodling amendment and support the bill that is being proposed by our chairman on our committee.

Mr. GOODLING. Mr. Chairman, I yield 2 minutes to the gentlewoman from Connecticut [Mrs. JOHNSON].

Mrs. JOHNSON. Mr. Chairman, I thank the gentleman for yielding time to me.

Mr. Chairman, I do not expect to use my entire 2 minutes, but I do want to make two very important points. At least they are important to the people in my district.

I have been in schools that can show me a way to deal with special ed kids that is better for the kids, better for the teacher, better for the whole situation, that is difficult to actually do because of the prospective nature of Federal law. These schools need flexibility. The teachers need to be able to respond to the kids in a way that the kids need.

There is not any other setting in our society that has not changed in the last decade. It has changed the way that people work together to accomplish their goals. Schools have changed, to some extent, in this regard, but they have not been allowed to change in the way they need to change because we cannot tell them how to change, we cannot write laws that guide that change. That change has to come from the bottom up. It is teachers, it is kids, it is administrators, and they need the flexibility that is in this law in order to do what the children need to learn.

The second point, our schools, our public schools, are excellent. There are many schools in this district that are positively outstanding. America is blessed with great and gifted, caring teachers and dedicated administrators.

However, we have kids coming into our system who are different than the kids who have ever come into our system. We have kids coming to school who had no breakfast, who heard fighting all night, who heard shots in the streets and people being killed. We have kids whose needs are different and whose experiences of life are different, who have never been read to but who have seen television.

The new schools initiative can provide us with an opportunity to learn how do we reach the kids that are not being reached, how do we set higher standards for the kids who are capable of reaching higher standards. Without the new schools allocation of resources that is in the Goodling substitute, we will not have that opportunity for barrier-breaking research.

This is reform. This Congress has to have the courage to reform.

Mr. KILDEE. Mr. Chairman, I reserve my right to close the debate.

Mr. GOODLING. Mr. Chairman, I yield 1 minute to the gentleman from Maryland [Mr. GILCHREST].

Mr. GILCHREST. Mr. Chairman, I rise in strong support of the Goodling amendment for a whole host of reasons. I have been a schoolteacher for years and years and years, and I see how Government outside bureaucracy stifles initiative, incentive, and motivation in the public schools.

I want to give one quick example, and there are a lot of things that I could say positive about the Goodling amendment. I strongly endorse the people of this House from a schoolteacher perspective. If the Members want good quality education, support the Goodling amendment.

I was a civics teacher and taught freshman civics. In the State of Maryland a child has to pass a State test in order to get a high school diploma. We would always identify kids that could not pass this test.

What we did was, we took a woman who was paid for by the Federal Government who taught them career skills. She had three periods a day off. She volunteered. She said she would love to teach these kids civics skills beyond what we taught them in the classroom.

We arranged the whole schedule, had everything nailed down, and we were told the day before the program was going to be started that this woman could not do it because she was paid for by the Federal Government, and could only teach careers. She could not teach about civics.

We need some flexibility. Please vote for the Goodling amendment.

Mr. GOODLING. Mr. Chairman, I yield myself the balance of the time.

The CHAIRMAN. The gentleman from Pennsylvania [Mr. GOODLING] has 6 minutes remaining.

Mr. GOODLING. Mr. Chairman, I am going to have to speak rapidly to cover everything in 6 minutes. Let me say that the bipartisan bill which I present today, the Kildee-Goodling bill, will bring about systemic change if anything will. There is nothing else that has been offered today that will do that. This will. I would ask the Members to look at several issues.

First of all, we have real involvement of the local committee. We cannot ask local people to volunteer their time to make a change, to make a difference, to make recommendations, when they understand that, "Well, it does not matter what we say and what we do, the school board in the end can rewrite the whole thing."

I say the school board has the very first control by saying, "We will make an application." They have the last, because they say, "We will or will not forward that application to the State." However, they do not rewrite what all these people wrote and sent that on.

Second, all funds must go to local education reform programs. The program that I offer says that, "Here are 6, or 7, or 8 different ideas," not 15 or 20 or anything under the sun, because what the majority does in their bill is merely say that, "Here is the money. Go do more of the same. You have been so successful in the past." That is why everybody is jumping up and down screaming how wonderful our public school education is. "Here is more money, do more of the same." We do not do that. We say that it must be used for reform.

Again, let me reemphasize, everyone here knows where I stand on choice and where I stand in relationship to public school education. In my substitute, which is, I will say, and pardon me for saying this, the Ford-Sununu language, the local school district makes that determination. They can do anything they want. They do not have to do any choice. But let me tell the gentleman from Illinois [Mr. HAYES], from what I understand from visiting New York City, the finest education program

they have is in Harlem, where as a matter of fact, it is choice that they use. They cut the dropouts from about 90 percent to 90 percent attendance.

That is the local school district that made that decision, and they have made all the difference in the world in the relationship to the education of those children and the future of those children and the future of this country.

Flexibility. Let me make it very clear when I talk flexibility, as I mentioned, all of those people that were called in to get all excited about it did not read the legislation. The legislation protects them every step of the way.

Let me tell the Members a little bit about flexibility. We have a bilingual education program. We have to write a handicapped education program, and we are dealing with the same children. We cannot write a program for both entities, because we must now keep all the separate bookwork, all the separate accounting and so on. We do not go in and look at whether the programs are good, bad or indifferent, we say, is the money going exactly as we say?

They need that kind of flexibility if we are going to improve their education. We do not need it for 300 schools, we need it for 83,000 schools.

New American schools is nothing new. New American schools is an operation all over this country. It is what the local community decides it is. Nothing is mandated by the Federal Government. It is what the local system says they must do in order to improve their school system.

I have one problem with their bill in relationship to standards and assessments. Mine is pretty much what the gentleman from Michigan [Mr. KILDEE] and I approved when it came out of the council. The one thing that I have a concern about is, it creates a Federal body that would set standards on how education should occur at the local level. I happen to think that is dangerous. I do not think we should be in that particular business.

Again, we have taken care of special needs students. No one can say that they fight any more for them than I do. On the Committee on the Budget the gentleman from Michigan [Mr. KILDEE] and I made sure that we got closer to that 40 percent that we promised a long time ago for special ed students. We sent them about 9 percent and we promised them 40 percent. We sent them all the mandates, yet we sent them very little money.

In the Committee on the Budget, when we served there, we insisted that over a 5-year time they get that 40 percent. If they did that, local school districts then could do many other things for the rest of their students they cannot do now because we mandated what they had to do and did not send them any money.

□ 1400

So again I would ask Members please, please look at my legislation, look at our legislation. Look at the bipartisan effort that went into this. Look at the effort put forth by Dr. Hartman, by Lynn Selmser, by Jo Marie St. Martin, by Jack Jennings, by Susan Wilhelm, by Jeff McFarland and June Harris, and then the whip-crackers who made them work, Pat Rissler and Gay Eagan. All of those people were involved in getting us to this point, and I ask Members to please, please let us encourage local districts to make some changes so that we get better education for all children, not just some, but all.

Mr. Chairman, I yield back the balance of my time.

Mr. KILDEE. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, my deep admiration for the gentleman from Pennsylvania [Mr. GOODLING], which dates back from my arrival here in this body, make no less firm my opposition to certain elements to his substitute. Let me just briefly mention two of those areas.

One is in the area of flexibility. Mr. GOODLING and I have talked for a number of years on how to achieve greater flexibility because we do know that various programs serve the same child that walks in the front door of that school, and that rigidity has to be changed. But there are certain areas of his flexibility provision that I have some serious concerns about. I think they are a little too broad.

I think, first of all, if we are going to have flexibility it will require a bipartisan agreement so that we can both stand here on the floor and say this is good, and we can sell it to the various communities out there who have some concern about it, as the disability community does at this time.

I think the flexibility is too broad in the area of Head Start. They could waive, for example, health and safety requirements. If Members have any doubt about them waiving those requirements, just look at the child care bill. In the child care bill we felt sure we had health and safety protections, and they said for certain child care facilities health and safety protection were not even a consideration. Health and safety requirements could be waived in Head Start, and I am very concerned about that.

Parental involvement in chapter 1 could be waived. I am concerned about that.

Another area is the area of assessment. The Goodling substitute moves the Federal Government I believe just too rapidly down a road that has not been traveled before. I think we should travel that road very carefully and very cautiously. I think again that if we can come out here on assessment, in a bipartisan fashion, we can sell that to the various other people who are involved and watching this Congress.

Those two areas require a bipartisan agreement in committee, the area of flexibility and the area of assessment. We do not have that. For that reason, and because of some of the shortcomings in those two areas in this bill, I would oppose the substitute.

Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN. The question is on the amendment in the nature of a substitute offered by the gentleman from Pennsylvania [Mr. GOODLING].

The question was taken; and the Chairman announced that the noes appeared to have it.

RECORDED VOTE

Mr. GOODLING. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 140, noes 267, not voting 27, as follows:

[Roll No. 384]

AYES—140

Allard	Gradison	Nussle
Allen	Grandy	Oxley
Applegate	Gunderson	Packard
Archer	Hall (TX)	Paxon
Baker	Hammerschmidt	Petri
Ballenger	Hancock	Porter
Barrett	Hansen	Pursell
Bateman	Hastert	Quillen
Bentley	Hefley	Ravenel
Bereuter	Henry	Regula
Bilirakis	Herger	Rhodes
Bliley	Hobson	Ridge
Boehner	Holloway	Riggs
Broomfield	Hopkins	Ritter
Bunning	Hunter	Roberts
Burton	Hutto	Rogers
Byron	Inhofe	Rohrabacher
Callahan	Ireland	Ros-Lehtinen
Camp	James	Roth
Campbell (CA)	Johnson (CT)	Santorum
Chandler	Kasich	Schaefer
Clinger	Klug	Schulze
Coble	Kolbe	Sensenbrenner
Coleman (MO)	Kyl	Shaw
Combest	Lagomarsino	Shuster
Coughlin	Leach	Skeen
Cox (CA)	Lent	Smith (OR)
Crane	Lewis (CA)	Smith (TX)
Dannemeyer	Lewis (FL)	Spence
DeLay	Lightfoot	Stearns
Dickinson	Lipinski	Stenholm
Doolittle	Livingston	Stump
Dornan (CA)	Lowery (CA)	Sundquist
Dreier	Marlenee	Taylor (NC)
Duncan	Martin	Thomas (CA)
Edwards (OK)	McCandless	Thomas (WY)
Emerson	McCrery	Upton
Ewing	McDade	Vander Jagt
Fawell	McEwen	Vucanovich
Fields	McGrath	Walsh
Franks (CT)	McMillan (NC)	Weldon
Gallegly	Meyers	Wolf
Gekas	Michel	Wylie
Gilchrest	Miller (OH)	Young (AK)
Gillmor	Miller (WA)	Zeliff
Goodling	Moorhead	Zimmer
Goss	Morrison	

NOES—267

Abercrombie	Beilenson	Browder
Alexander	Bennett	Brown
Anderson	Berman	Bruce
Andrews (ME)	Bevill	Bryant
Andrews (NJ)	Bilbray	Bustamante
Andrews (TX)	Blackwell	Cardin
Annunzio	Boehlert	Carper
Anthony	Bonior	Carr
Armey	Borski	Chapman
Aspin	Boucher	Clement
Atkins	Boxer	Coleman (TX)
AuCoin	Brewster	Collins (IL)
Bacchus	Brooks	Collins (MI)

Condit	Kaptur	Pickle
Conyers	Kennedy	Poshard
Cooper	Kennelly	Price
Costello	Kildee	Rahall
Cox (IL)	Kleczka	Ramstad
Coyne	Kolter	Rangel
Cramer	Kopetski	Ray
Darden	Kostmayer	Reed
Davis	LaFalce	Rinaldo
de la Garza	Lancaster	Roe
DeLauro	Lantos	Roemer
Dellums	LaRocco	Rose
Derrick	Laughlin	Rostenkowski
Dicks	Lehman (CA)	Roukema
Dingell	Lehman (FL)	Rowland
Dixon	Levin (MI)	Roybal
Donnelly	Levine (CA)	Russo
Dooley	Lewis (GA)	Sabo
Dorgan (ND)	Lloyd	Sanders
Downey	Long	Sangmeister
Durbin	Lowey (NY)	Sarpalius
Dwyer	Luken	Savage
Early	Machtley	Sawyer
Eckart	Manton	Saxton
Edwards (CA)	Martinez	Scheuer
Edwards (TX)	Matsui	Schiff
Engel	Mavroules	Schumer
English	Mazzoli	Serrano
Erdreich	McCloskey	Sharp
Espy	McCurdy	Shays
Evans	McDermott	Sikorski
Fascell	McHugh	Sisisky
Fazio	McMillen (MD)	Skaggs
Feighan	McNulty	Skelton
Fish	Mfume	Slattery
Foglietta	Miller (CA)	Slaughter
Ford (MI)	Mineta	Smith (FL)
Ford (TN)	Mink	Smith (IA)
Frank (MA)	Moakley	Smith (NJ)
Frost	Molinari	Snowe
Gallo	Mollohan	Solarz
Gejdenson	Montgomery	Spratt
Gephardt	Moody	Stallings
Geren	Moran	Stark
Gibbons	Morella	Stokes
Gilman	Mrazek	Studds
Glickman	Murphy	Swett
Gonzalez	Nagle	Swift
Gordon	Natcher	Synar
Green	Neal (MA)	Tallon
Guarini	Neal (NC)	Tauzin
Hall (OH)	Nichols	Taylor (MS)
Hamilton	Nowak	Thomas (GA)
Harris	Oakar	Thornton
Hayes (IL)	Oberstar	Torres
Hayes (LA)	Obey	Torricelli
Hefner	Olin	Traficant
Hertel	Olver	Unsoeld
Hochbrueckner	Ortiz	Valentine
Horn	Orton	Vento
Horton	Owens (NY)	Visclosky
Houghton	Owens (UT)	Volkmer
Hoyer	Pallone	Washington
Hubbard	Panetta	Waters
Huckaby	Parker	Waxman
Hughes	Pastor	Weiss
Jacobs	Patterson	Wheat
Jefferson	Payne (NJ)	Whitten
Jenkins	Payne (VA)	Williams
Johnson (SD)	Pease	Wilson
Johnson (TX)	Pelosi	Wise
Johnston	Penny	Wolpe
Jones (GA)	Perkins	Wyden
Jones (NC)	Peterson (FL)	Yates
Jontz	Peterson (MN)	Yatron
Kanjorski	Pickett	Young (FL)

NOT VOTING—27

Ackerman	Gaydos	Richardson
Barnard	Gingrich	Schroeder
Barton	Hatcher	Solomon
Campbell (CO)	Hoagland	Staggers
Clay	Hyde	Tanner
Cunningham	Markey	Towns
DeFazio	McCollum	Traxler
Dymally	Murtha	Walker
Flake	Myers	Weber

□ 1424

The Clerk announced the following pairs:

On this vote:

Mr. McCollum for, with Mr. Hoagland against.

Mr. Barton for, with Mr. Lake against.

Messrs. PAYNE of Virginia, ARMEY, GALLO, and SHAYS changed their vote from "aye" to "no."

Mrs. MEYERS of Kansas changed her vote from "no" to "aye."

So the amendment in the nature of a substitute was rejected.

The result of the vote was announced as above recorded.

The CHAIRMAN. The question is on the committee amendment in the nature of a substitute, as modified, as amended.

The committee amendment in the nature of a substitute, as modified, as amended, was agreed to.

The CHAIRMAN. Under the rule, the Committee rises.

Accordingly, the Committee rose; and the Speaker pro tempore [Mr. MCNULTY] having assumed the chair, Mr. PRICE, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 4323) to improve education for all students by restructuring the education system in the States, pursuant to House Resolution 551, he reported the bill back to the House with an amendment adopted by the Committee of the Whole.

The SPEAKER pro tempore. Under the rule, the previous question is ordered.

Is a separate vote demanded on any amendment to the committee amendment in the nature of a substitute adopted by the Committee of the Whole? If not, the question is on the amendment.

The amendment was agreed to.

The SPEAKER pro tempore. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

MOTION TO RECOMMIT OFFERED BY MR. GOODLING

Mr. GOODLING. Mr. Speaker, I offer a motion to recommit.

The SPEAKER pro tempore. Is the gentleman opposed to the bill?

Mr. GOODLING. Yes, I am, Mr. Speaker.

The SPEAKER pro tempore. The Clerk will report the motion to recommit.

The Clerk read as follows:

Mr. GOODLING moves to recommit the bill, H.R. 4323, to the Committee on Education and Labor.

The SPEAKER pro tempore. Without objection, the previous question is ordered on the motion to recommit.

There was no objection.

The SPEAKER pro tempore. The question is on the motion to recommit.

The motion to recommit was rejected.

The SPEAKER pro tempore. The question is on the passage of the bill.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

RECORDED VOTE

Mr. GOODLING. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—279, noes 124, not voting 31, as follows:

[Roll No. 385]

AYES—279

Abercrombie	Gallo	Morella
Alexander	Gejdenson	Morrison
Anderson	Gephardt	Mrazek
Andrews (ME)	Geren	Murphy
Andrews (NJ)	Gibbons	Murtha
Andrews (TX)	Gilchrest	Nagle
Annunzio	Gilman	Natcher
Anthony	Glickman	Neal (MA)
Applegate	Gonzalez	Neal (NC)
Aspin	Gordon	Nowak
Atkins	Green	Oakar
AuCoin	Guarini	Oberstar
Bacchus	Gunderson	Obey
Beilenson	Hall (OH)	Olver
Bennett	Hall (TX)	Ortiz
Bentley	Hamilton	Orton
Berman	Harris	Owens (NY)
Bevill	Hayes (IL)	Owens (UT)
Bilbray	Hayes (LA)	Pallone
Bilirakis	Hefner	Panetta
Blackwell	Hertel	Parker
Boehlert	Hochbrueckner	Pastor
Bonior	Horn	Patterson
Borski	Horton	Payne (NJ)
Boucher	Hoyer	Payne (VA)
Boxer	Hubbard	Pease
Brewster	Huckaby	Pelosi
Brooks	Hughes	Perkins
Browder	Hutto	Peterson (FL)
Brown	Jacobs	Peterson (MN)
Bruce	Jefferson	Petri
Bryant	Jenkins	Pickett
Bustamante	Johnson (SD)	Pickle
Byron	Johnston	Poshard
Campbell (CA)	Jones (GA)	Price
Cardin	Jones (NC)	Rahall
Carper	Jontz	Ramstad
Carr	Kanjorski	Rangel
Chapman	Kaptur	Ravenel
Clement	Kennelly	Ray
Coleman (TX)	Kildee	Reed
Collins (IL)	Kleczka	Rinaldo
Collins (MI)	Kolter	Roe
Condit	Kopetski	Roemer
Conyers	Kostmayer	Rogers
Cooper	LaFalce	Ros-Lehtinen
Costello	Lancaster	Rose
Cox (IL)	Lantos	Rostenkowski
Coyne	LaRocco	Rowland
Cramer	Laughlin	Roybal
Darden	Leach	Russo
Davis	Lehman (CA)	Sabo
de la Garza	Lehman (FL)	Sanders
DeLauro	Levin (MI)	Sangmeister
Dellums	Levine (CA)	Sarpalius
Derrick	Lewis (GA)	Savage
Dicks	Lipinski	Sawyer
Dingell	Lloyd	Saxton
Dixon	Long	Scheuer
Donnelly	Lowey (NY)	Schiff
Dooley	Luken	Schroeder
Dorgan (ND)	Machtley	Schumer
Downey	Manton	Serrano
Duncan	Martinez	Sharp
Durbin	Matsui	Shaw
Dwyer	Mavroules	Sikorski
Early	Mazzoli	Sisisky
Eckart	McCloskey	Skaggs
Edwards (CA)	McCurdy	Skelton
Edwards (TX)	McDermott	Slattery
Engel	McHugh	Slaughter
English	McMillen (MD)	Smith (FL)
Erdreich	McNulty	Smith (IA)
Espy	Meyers	Smith (NJ)
Evans	Mfume	Snowe
Fazio	Miller (CA)	Solarz
Feighan	Mineta	Spratt
Fish	Mink	Stallings
Foglietta	Moakley	Stark
Ford (MI)	Mollohan	Stokes
Ford (TN)	Montgomery	Studds
Frank (MA)	Moody	Swett
Frost	Moran	Swift

Synar	Valentine	Wheat
Tallon	Vento	Whitten
Tauzin	Visclosky	Williams
Taylor (MS)	Volkmer	Wilson
Thomas (GA)	Walsh	Wise
Thornton	Washington	Wolpe
Torres	Waters	Wyden
Torricelli	Waxman	Yates
Traficant	Weiss	Yatron
Unsoeld	Weldon	Young (FL)

NOES—124

Allard	Hammerschmidt	Oxley
Allen	Hancock	Packard
Archer	Hansen	Paxon
Armey	Hastert	Penny
Baker	Hefley	Porter
Ballenger	Henry	Pursell
Barrett	Herger	Quillen
Bateman	Hobson	Regula
Bereuter	Holloway	Rhodes
Bliley	Hopkins	Ridge
Boehner	Houghton	Riggs
Broomfield	Hunter	Ritter
Bunning	Inhofe	Roberts
Burton	James	Rohrabacher
Callahan	Johnson (CT)	Roth
Camp	Johnson (TX)	Roukema
Chandler	Kasich	Santorum
Clinger	Klug	Schaefer
Coble	Kolbe	Schulze
Coleman (MO)	Kyl	Sensenbrenner
Combest	Lagomarsino	Shays
Cox (CA)	Lent	Shuster
Crane	Lewis (CA)	Skeen
Dannemeyer	Lewis (FL)	Smith (OR)
DeLay	Lightfoot	Smith (TX)
Dickinson	Livingston	Spence
Doolittle	Lowery (CA)	Stearns
Dornan (CA)	Marlenee	Stenholm
Dreier	Martin	Stump
Edwards (OK)	McCandless	Sundquist
Emerson	McCrery	Taylor (NC)
Ewing	McDade	Thomas (CA)
Fawell	McEwen	Thomas (WY)
Fields	McGrath	Upton
Franks (CT)	McMillan (NC)	Vander Jagt
Gallegly	Michel	Vucanovich
Gekas	Miller (OH)	Wolf
Gillmor	Miller (WA)	Young (AK)
Goodling	Molinari	Zeliff
Goss	Moorhead	Zimmer
Gradison	Nichols	
Grandy	Nussle	

NOT VOTING—31

Ackerman	Gaydos	Richardson
Barnard	Gingrich	Solomon
Barton	Hatcher	Staggers
Campbell (CO)	Hoagland	Tanner
Clay	Hyde	Towns
Coughlin	Ireland	Traxler
Cunningham	Kennedy	Walker
DeFazio	Markey	Weber
Dymally	McCollum	Wylie
Fascell	Myers	
Flake	Olin	

□ 1445

The Clerk announced the following pairs:

On this vote:

Mr. Hoagland for, with Mr. Barton against.
Mr. Towns for, with Mr. McCollum against.

Mrs. JOHNSON of Connecticut changed her vote from "aye" to "no."

Mr. GALLO changed his vote from "no" to "aye."

So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

Mr. KILDEE. Mr. Speaker, pursuant to House Resolution 551, I call up from the Speaker's table the Senate bill (S. 2) to promote the achievement of national education goals, to measure progress toward such goals, to develop national education standards and voluntary assessments in accordance with such standards and to encourage the comprehensive improvement of America's neighborhood public schools to improve student achievement, and ask for its immediate consideration.

The Clerk read the title of the Senate bill.

MOTION OFFERED BY MR. KILDEE

Mr. KILDEE. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. KILDEE moves to strike all after the enacting clause of the Senate bill, S. 2, and insert in lieu thereof the provisions of H.R. 4323, as passed, as follows:

[The bill H.R. 4323, will appear in a subsequent issue of the RECORD.]

The motion was agreed to.

The Senate bill was ordered to be read a third time, was read the third time, and passed.

The title of the Senate bill was amended so as to read: "A bill to improve education for all students by restructuring the education system in the States."

A motion to reconsider was laid on the table.

A similar bill (H.R. 4323) was laid on the table.

MOTION OFFERED BY MR. KILDEE

Mr. KILDEE. Mr. Speaker, pursuant to the rule, I offer a motion.

The Clerk read as follows:

Mr. KILDEE moves to insist on the House amendment to the Senate bill, S. 2, and request a conference thereon.

The SPEAKER pro tempore. (Mr. MCNULTY). The question is on the motion offered by the gentleman from Michigan [Mr. KILDEE].

The motion was agreed to.

The SPEAKER pro tempore. The conferees will be appointed on the return of the Speaker to the rostrum.

AUTHORIZING THE CLERK TO MAKE CORRECTIONS IN ENGROSSMENT OF H.R. 4323, NEIGHBORHOOD SCHOOLS IMPROVEMENT ACT

Mr. KILDEE. Mr. Speaker, I ask unanimous consent that in engrossment of the bill, H.R. 4323, the Clerk be authorized to make corrections in section numbers, punctuation, and cross-references, and to make such other technical and conforming changes as may be necessary to reflect the actions of the House in amending the Senate bill, S. 2.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Michigan?

There was no objection.

GENERAL LEAVE

Mr. KILDEE. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks, and include extraneous matter, on H.R. 4323, the bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Michigan?

There was no objection.

FURTHER MESSAGE FROM THE SENATE

A further message from the Senate by Mr. Hallen, one of its clerks, announced that the Senate had passed with amendments in which the concurrence of the House is requested a bill of the House of the following title:

H.R. 2607. An act to authorize activities under the Federal Railroad Safety Act of 1970 for fiscal years 1992 and 1993, and for other purposes.

The message also announced that pursuant to Public Law 102-325, the Chair, on behalf of the majority leader, appoints Mr. LAUTENBERG from the Committee on Appropriations and Mr. PELL from the Committee on Labor and Human Resources, as members of the National Commission on the Cost of Higher Education.

□ 1450

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF H.R. 4706, CHILD SAFETY PROTECTION AND CONSUMER PRODUCT SAFETY COMMISSION IMPROVEMENT ACT

Mr. DERRICK, from the Committee on Rules, submitted a privileged report (Rept. No. 102-840) providing for the consideration of the bill (H.R. 4706) to amend the Consumer Product Safety Act to extend the authorization of appropriations under that act, and for other purposes, which was referred to the House Calendar and ordered to be printed.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. MCNULTY). Pursuant to clause 5, rule I, the Chair will now put the question on each motion to suspend the rules on which further proceedings were postponed on Tuesday, August 11, 1992, in the order in which that motion was entertained.

Votes will be taken in the following order: H.R. 2144, de novo, and House Joint Resolution 454, de novo.

The Chair will reduce to 5 minutes the time for any electronic vote after the first such vote in this series.

CALIFORNIA TRIBAL STATUS ACT

The SPEAKER pro tempore. The unfinished business is the question of suspending the rules and passing the bill, H.R. 2144, as amended.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from California [Mr. MILLER] that the House suspend the rules and pass the bill, H.R. 2144, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

The title of the bill was amended so as to read: "A bill to restore the Federal trust relationship of the United Auburn Indian Community, to establish the Advisory Council on California Indian Policy, and for other purposes."

A motion to reconsider was laid on the table.

ASSASSINATION MATERIALS DISCLOSURE RESOLUTION OF 1992

The SPEAKER pro tempore. The unfinished business is the question of suspending the rules and agreeing to the joint resolution, House Joint Resolution 454, as amended.

The Clerk read the title of the joint resolution.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Michigan [Mr. CONYERS] that the House suspend the rules and pass the joint resolution, House Joint Resolution 454, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the joint resolution, as amended, was passed.

A motion to reconsider was laid on the table.

APPOINTMENT OF CONFEREES ON S. 2, NEIGHBORHOOD SCHOOLS IMPROVEMENT ACT

The SPEAKER pro tempore. Without objection, the Chair appoints the following conferees on the Senate bill, S. 2, Neighborhood Schools Improvement Act: Messrs. FORD of Michigan, MILLER of California, KILDEE, WILLIAMS, MARTINEZ, OWENS of New York, HAYES of Illinois, PERKINS, and SAWYER, Mrs. LOWEY of New York, Mrs. UNSOELD, Mr. WASHINGTON, Mrs. MINK, Messrs. JEFFERSON, REED, ROEMER, OLVER, PASTOR, GOODLING, and PETRI, Mrs. ROUKEMA, Mr. GUNDERSON, Mr. HENRY, Ms. MOLINARI, and Messrs. BOEHNER, KLUG, ARMEY, and CUNNINGHAM.

There was no objection.

The SPEAKER pro tempore. Without objection, the Chair reserves the right to appoint additional conferees.

There was no objection.

AIRLINE COMPETITION ENHANCEMENT ACT OF 1992

The SPEAKER pro tempore. Pursuant to House Resolution 541 and rule XXIII, the Chair declares the House in the Committee of the Whole House on the State of the Union for the consideration of the bill, H.R. 5466.

□ 1454

IN THE COMMITTEE OF THE WHOLE

Accordingly, the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 5466) to amend the Federal Aviation Act of 1958 to enhance competition among air carriers by prohibiting an air carrier who operates a computer reservation system from discriminating against other air carriers participating in the system and among travel agents which subscribe to the system, and for other purposes, with Mr. SKAGGS in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. Pursuant to the rule, the bill is considered as having been read the first time.

Under the rule, the gentleman from Minnesota [Mr. OBERSTAR] will be recognized for 30 minutes, and the gentleman from Pennsylvania [Mr. CLINGER] will be recognized for 30 minutes.

The Chair recognizes the gentleman from Minnesota [Mr. OBERSTAR].

Mr. OBERSTAR. Mr. Chairman, I yield myself 9 minutes.

Mr. Chairman, the Committee on Public Works and Transportation brings to the Committee of the Whole what I consider to be one of the most important actions this body could take with respect to the continuity of competition among airlines in today's aviation market and that of the future. H.R. 5466, legislation to enhance and encourage and stabilize the marketplace for competition among air carriers, has as its central driving force a prohibition on an air carrier who opens a computer reservation system from discriminating against other air carriers which participate in that system and among travel agents who subscribe to the CRS system.

Mr. Chairman, I will deal with the essence of this legislation in a moment. I just want to mention several other items that are included in this legislation which are of very great importance.

First, the bill also provides protection for small community airline passengers by dealing with the availability of slots for essential air service at O'Hare International Airport; random testing for prohibited drugs, a rulemaking issued by the Secretary of Transportation to consider whether there should be a reduction in the annualized rate of random testing for prohibited drugs; to clarify certain provisions relating to passenger facility charges and frequent flier tickets; and cancellations and on-time performance by commuter air carriers, all of which are items of very great importance to the traveling public, but none which approach the significance of the computer reservation system.

In 1978 when the Congress acted to deregulate the economics of aviation, the legislation dealt with market entry and fares, removing the Federal Government from determination of which carriers shall serve which domestic markets and which fares they should charge.

The Government did not deregulate safety, it did not deregulate antitrust enforcement, and it did not deregulate consumer protection.

Mr. Chairman, the purpose of deregulation was to encourage competition, to broaden the opportunities for the traveling public to choose among carriers, for communities to be served in ways in the future that they had not been in the past. In the first few years after deregulation that concept worked; 22 new carriers entered the airline competition.

But within the next 5 years after deregulation, those 22 carriers had disappeared, the victims of bankruptcy, leveraged buyouts, mergers, and acquisitions. Today we have eight carriers of national significance, four of which are of major national and international significance. The Congress and the public watched as competition was gobbled up in the airline industry and the choices reduced to only a few.

□ 1500

In the last 2 years, we have seen other problems beset the airline industry, including the recession, the gulf war, an increase in jet fuel for airlines, and problems in the international arena resulting largely from security fears arising out of the gulf war.

From the time of the Wright brothers until the end of 1989, all the airlines in America lost only $1,800,000,000. But in the next 2 years, domestic airlines lost over $6 billion, a serious economic problem facing the airline industry.

And at the beginning of this year, and, in fact, at the beginning of this Congress, questions were asked by the traveling public, whether there is going to be any competition left among airlines in the domestic United States.

At a hearing we held in the Committee on Public Works and Transportation and in the Subcommittee on Aviation, the Secretary of Transportation testified that, yes, indeed, that we may see the reduction of competition to three. And then he amended it to say, maybe four carriers, not a very encouraging prospect for the future of air travel and for the future of airline economics.

We heard those warnings. We looked at the causes. We held extensive hearings on the subject of airline economics and what will keep competition alive in this country. And it boils down to one issue, computer reservation systems, the driving force in determining who competes, who makes money and who survives in this industry.

We would be judged harshly if we failed to act, knowing what we know, seeing what we have seen, observing the concentration of economic power in the airline industry down to two major carriers that dwarf the rest of the industry and two computer reservation systems that dominate in a way that no other powerful economic force has done in the airline industry.

When we can see the warning signs and know what needs to be done and have the time to act, we would be judged harshly if we did not act. And so we bring to Members today legislation to provide for equality of treatment in a marketplace of reserving fares, making bookings on airlines and for air travel.

Of the four computer reservation systems, two, Apollo and Sabre, command 70 percent of the market. They are able, through their market force and economic power, to impose virtually whatever terms they want on competing airlines and on the various travel agents who place most of the air travel business.

Fees are charged to participating airlines, along with the contracts with high liquidated damage clauses imposed upon travel agents.

When all of us in the next 24 hours board flights to go back to our districts, to go off to the Republican Convention in Houston, to go serve our constituencies, our tickets will reflect those costs. We are paying for those distortions in the marketplace.

In a study recently completed for Public Citizen by MIT professor of economics, Franklin Fisher, the professor stated that the cost to the air traveling consuming public is between $2 million to $3 million each day, the cost of CRS bias. Dr. Fisher added:

I suspect that many of us would think something was amiss if Macy's had to rely on Gimbel's not only to print and mail the Macy's Christmas catalogue, but also take orders for Macy's merchandise. But we're not far away from that when it comes to airline computer reservation systems.

We are paying for it every time we board airplanes.

The legislation before us will require those two powerful, big, dominant systems, Sabre and Apollo, to afford equal access and equal treatment on the screen to all airlines so that all travel agents will be able to place their bookings on an equal footing called equal functionality. It is a reasonable step to take. It is an action that we must take. It is action that this legislation provides in a reasonable fashion. It is an issue this subcommittee has been studying for 9 years under the leadership of my predecessor, the gentleman from California [Mr. MINETA].

We have heard one after another promise that the two dominant CRS systems would achieve equal functionality. We heard promises that the Department of Transportation would act. They have not acted.

We bring this legislation today only after nearly a decade of action or inquiry on our part and inaction by the airlines and the Department of Transportation.

Mr. Chairman, H.R. 5293 is supported by a broad-based coalition which includes airlines ranging in size from Alaska Airlines to Delta Airlines, the two major associations representing travel agents who use CRS, and major consumer groups.

This subcommittee has devoted the better part of the last 9 years to analysis of the CRS issue. In 1983, under the chairmanship of our colleague, NORM MINETA the subcommittee held landmark hearings and made recommendations which were instrumental in getting the Civil Aeronautics Board to adopt the first and, to date the only, regulations dealing with CRS issues. In 1987, we urged the Department of Transportation to conduct an in-depth study of whether CAB's regulations were sufficient to deal with CRS problems. The study, which was completed in 1988, clearly demonstrated that serious CRS problems had persisted and that further regulations were needed.

Following our hearings on the DOT study, the subcommittee began an effort, which has been continued over the past 4 years, to prod DOT to take the necessary regulatory action. The results have been extremely frustrating. Although the Department did issue a comprehensive notice of proposed rulemaking in 1991, a final rule is still not in place. Worse, the regulatory process has come to a complete standstill because of the administration's moratorium on new regulations. It is not clear when, if ever, final rules will be issued. As a consequence we have no alternative but to accomplish through legislation what DOT should have accomplished through rulemaking.

At the outset, it would be useful to address an issue which frequently comes up when we discuss CRS problems. People not familiar with CRS issues often ask me why I believe that CRS's should be subject to economic regulation, when I generally support airline deregulation, and its underlying premise that free competition will result in better service for the traveling public. Good question.

Two good answers. First, because of the structure and the nature of the CRS industry, competition simply doesn't work. This is not only my conclusion; it is the conclusion of the Civil Aeronautics Board, the Department of Transportation, the Department of Justice, and the General Accounting Office.

A prime example of why competition doesn't work: The case of the booking fees which CRS charge other airlines to participate in their CRS systems. The 1988 DOT study found that the booking fees which American and United charge other airlines to participate in their CRS are about double the average costs incurred by United and American to provide those services. DOT found that these booking fees produce returns on invested capital of 50 percent for United and 75 percent to 90 percent for American. The existence of these high fees, which the Department of Justice and the Department of Transportation have described as supra-competitive fees, is a sure sign that competition is not controlling booking fees.

Competition doesn't limit booking fees because there is no significant competition among CRS's to sign up airlines. Any airline which wants to compete successfully must be listed in every CRS. An airline which decided that it would not participate in one of the four CRS's would lose the opportunity to market its product through the substantial number of travel agents using that CRS. In these circumstances, airlines have no choice but to participate in every CRS and pay whatever booking fees each CRS charges. The result is high booking fees, which drain the financial resources of the airlines and produce substantial additional revenues for American and United to use in airline competition.

Another example: CRS bias, which encourages a travel agent to book on the airline owning the CRS system. Before the first CRS regulations in 1984, American and United listed their schedules first on their CRS screens, above the schedules of other airlines serving the same markets. This produced substantial additional bookings and revenues for American and United. Competition between different CRS systems did not prevent this so-called display bias. Although travel agents would prefer an unbiased display, they apparently did not have the bargaining power to force the CRS's to produce unbiased displays.

Since 1984 display bias has been outlawed. In its place, the CRS owners have turned to so-called architectural bias, that is, designing the CRS system to make it easier and more reliable for an agent to book on the airline owning the system. DOT has found that architectural bias produces additional airline revenues for American and United of $100 million to $200 million a year. Again, the competition between CRS systems for agents has not been successful in ending architectural bias.

A second reason to support CRS legislation: Apart from this bill's requirement of equal functionality, H.R. 5293 will encourage CRS competition and permit the free market to work. For example, CRS owners restrict competition by signing up travel agents for long-term contracts, with very high liquidated damages charged to any agent who tries to end a contract. These provisions have made it very difficult for other CRS systems to compete for the business of an agent who has already signed up for a particular CRS.

The CAB tried to overcome this problem by limiting CRS contracts to 5 years. American and United quickly responded by pushing agents to sign new 5 year contracts whenever they acquired new equipment. This meant that most agents' CRS contracts were never close to a termination date.

H.R. 5293 will overcome these problems by limiting CRS contracts to 3 years, prohibiting frequent renewals, and limiting liquidated damages. This type of regulation will be procompetitive and encourage greater competition between CRS owners to sign up agents. Many other provisions in H.R. 5293 will have similar effects.

In my judgment, circumscribing the monopoly in CRS is critical to ensuring adequate competition in the airline industry. If the present situation continues, the two largest airlines, United and American, will continue to use their monopolistic powers in the CRS industry to divert hundreds of millions of dollars

a year from their airline competitors. The diversions will come from high booking fees which other airlines must pay to participate in American's and United's CRS systems, and from the added airline revenues which American and United will get because it will be easier to make bookings on their CRS for their services. With these hundreds of millions of dollars of added revenues, American and United will continue to be able to purchase aircraft, buy international routes and slots, and withstand fare wars. Their competitors will be unable to take these steps. Conclusion: legislation regulating CRS practices is necessary if the smaller airlines are to survive against American and United.

Mr. Chairman, I reserve the balance of my time.

Mr. CLINGER. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I support H.R. 5466 and would encourage Members to lend their support as well.

This bill, as the gentleman from Minnesota, Chairman OBERSTAR, has indicated, represents a compromise and a genuine compromise, I think, that is going to help materially aid smaller, weaker air carriers, help them to maintain a competitive balance by ensuring that computer reservation systems in no way distinguish the display of their flights, seat availability, fares, from those of any other carrier, large or small, including the computer reservations owned wholly or in part by an air carrier. And this is where the problem has arisen, in the fact that the two major computer reservation systems are owned by two of our major carriers and the perception, at least, if not the reality, that this is giving those air carriers an enormous advantage, competitive advantage in dealing with the smaller airlines in the country.

I particularly want to thank my chairman, the gentleman from Minnesota, Chairman OBERSTAR, for his willingness to work with us, to work with the minority, some of the minority, to try to strike a balance in this competition bill.

It is no secret that I and others did not support earlier versions of this bill, chiefly because of provisions that would have required dehosting; that is to say, that the airline would have been mandated to separate its internal reservation system from its own computer reservation system. And that was going to work a real hardship on those airlines; namely, American and United, who would be required to separate their own reservation setup from their own system.

That is no longer a requirement in this bill. We really have come a long way in eliminating that. And it is because of the willingness in the spirit of compromise to eliminate the dehosting provision in the earlier bill and also a provision calling for arbitration and for the chairman's willingness to include other provisions, noted in a moment, that I would enthusiastically support H.R. 5466 and would encourage all Members to support it as well.

This bill will prohibit any form of architectural bias, no matter how subtle. Complaint and remedy procedures are provided for, which will give the Secretary authority to ensure that equal functionality is achieved.

This is something that the airlines and the two major players, American and United, have indicated is achievable; they are both working to achieve this and it will not represent a tremendous financial burden to them to accomplish equal functionality.

So that we will have, for the first time, a really level playing field with regard to the computer reservation system.

The bill also addresses several contract provisions held between travel agents and computer reservation systems, provisions which are strongly advocated by travel agent associations, who brought their concerns to us as part of our deliberation on this bill.

It would also address a number of other industry concerns that we have been made aware of. It directs the Secretary, for example, to initiate a rulemaking to consider whether or not there should be a reduction in the annualized rate of random drug testing. And this is something that we think should be given attention by the Secretary.

At the present, there is a 50-percent requirement. Even the Department itself has reduced that for their own employees, and we think similar consideration should be given to whether or not the airlines should be allowed to reduce the amount of random testing that goes on.

Second, the bill ensures the availability of slots; that is, the ability to land and take off at airports that have very high density for communities eligible to receive essential air service in those airports.

At the moment this provision will apply only to O'Hare Airport in Chicago.

□ 1510

Third, it clarifies that the FAA Administrator has discretion in ordering criminal history checks for air carrier employees. Presently there would be a requirement mandating all employees, all future and past employees, would have to be checked for criminal activity.

Finally, it would stipulate that the passenger facility charge which we authorized 2 years ago cannot be assessed against frequent flier tickets. In other words, if a person is using a frequent flier ticket, they would not have to pay a passenger facility charge if they are using, in effect, a free ticket.

It would also direct commuter air carriers to make the same on-time and cancellation reports now required of major air carriers, and it would also add a new requirement to be used for the department for enroute proceedings.

At the moment, under present standards, the department tends to favor the rich who get richer while the poor get poorer. The smaller airlines have in our view not had an equal opportunity to some of the foreign international routes that have come along.

I have to note that the administration does oppose this bill, but frankly, I do not have a lot of sympathy for that position, because we have been after them and they have indicated that they have been working on a rulemaking in this area for a long, long time, about 9 years at last count, and the rule is still not out. Hopefully maybe there will be a rule sometime. We have frankly gotten to the point where we can no longer wait for that to happen.

This bill is supported by a number of airlines; not all, obviously. This is really a question of the big airlines versus the smaller airlines, but it is supported by many airlines, by travel agents, by consumer groups. Supporters include Alaska Airlines, America West Airlines, Continental, Delta, Northwest, Trans World; also, the American Society of Travel Agents, the Aviation Consumer Action project, and the Consumer Federation of America.

Mr. Chairman, this bill does represent a compromise. I think it is a good compromise. I think it is a fair compromise. It will not work a hardship on the major owners of the computer reservations systems, but it will certainly give those that are not so fortunate as to have a major system an equal opportunity at getting aircraft bookings .

Mr. Chairman, I reserve the balance of my time.

Mr. OBERSTAR. Mr. Chairman, I yield 7 minutes to the gentleman from Illinois [Mr. LIPINSKI].

Mr. LIPINSKI. Mr. Chairman, I want to thank the committee chairman, and I want to thank the gentleman from Minnesota. I rise in opposition to this bill, H.R. 5466, the Airline Competition Enhancement Act of 1992. I do so very reluctantly because the chairman of the Aviation Subcommittee and I have a history of working together on many issues which have no doubt been of enormous benefit to the American people. On this issue, however, I cannot reach an agreement with the chairman because I do not believe that H.R. 5466 will be of benefit to even one member of the American traveling public. He may have the best intentions, but the distinguished gentleman and my friend from Minnesota is wrong about the CRS industry and wrong about this bill.

H.R. 5466 will not accomplish what its supporters claim. It will not increase competition in the airline industry. It will not provide assistance to

airlines operating in bankruptcy or hovering on a precarious financial edge. H.R. 5466 will not cause the poor business decisions of the last 14 years to disappear. It will not help the former employees of Eastern, PanAm, or Midway Airlines find new jobs. It will not even help Continental or TWA or America West to keep flying. This bill will do nothing to enhance competition in the airline industry, not today, not tomorrow, not ever.

This bill will undermine the foundation of existing contract law by abrogating over 20,000 existing contracts without providing compensation to the CRS vendors who negotiated in good faith. Why are we proposing legislation to undermine contracts that have been challenged, litigated, and found legally sound by the Supreme Court. Do we really want to take away the right of one party to sue another party for a breach of contract as H.R. 5466 proposes? To do so will stifle the American free enterprise system and devastate one of the last remaining industries in which America is considered to be the undisputed world leader.

This bill will reward the two smallest CRS owners by taking away market share from the two largest. This bill will insure that the two largest CRS owners, American and Covia, suffer financial hardship for their past sins, sins that consist of taking financial risk, developing innovative technology and applying old-fashioned American ingenuity. It is no surprise that the airlines with the most successful systems have invested billions of dollars of their own money.

H.R. 5466 will send a clear message to the business community: Do not try to succeed. Do not try to offer the best product or the best service. Most importantly, do not compete with your competitors.

For if you do, you run the risk of your competitors crying to Congress, and Congress, in its infinite wisdom, passing legislation like H.R. 5466. Legislation that may put you out of business. Legislation that will have an enormous negative impact on the American free enterprise system and the competitive spirit of this Nation.

If we want to really do something about enhancing competition in the airline industry why do we continue to avoid the real issues? We have to ask ourselves, "Is the airline industry heading in the direction that we want it to?" I submit to you that it is not.

Will H.R. 5466 do anything to help the industry? No; contrary to what its proponents claim, H.R. 5466 does nothing to help airlines compete more effectively. It cannot make up for the years of poor judgment, mismanaged profits, or leveraged buyouts. It will not prevent our shrinking industry from becoming even more consolidated and it will not prevent foreign governments from continuing to discriminate against American airlines. The airline industry lost over $6 billion in 1991 and there is not one shred of evidence that can directly link such a loss with the alleged misuse of computer reservations systems.

Point of fact, American Airlines owns the largest CRS in the world and still lost over $240 million in 1991.

If H.R. 5466 passes, do not go home to your constituents and tell them that you supported legislation to increase competition in the airline industry. Your constituents may turn around and ask you why it was necessary to close down the local travel agency. They may ask you why airfares continue to rise. They may ask you why so many people are out of work and so many airlines have stopped flying. They may even ask you why you voted for legislation that claims to enhance competition but really just puts greater profits into the pockets of two corporations, both of which are owned by airlines.

I urge my colleagues to vote "no"—to defeat this legislation.

Mr. CLINGER. Mr. Chairman, I yield such time as he may consume to the gentleman from Arkansas [Mr. HAMMERSCHMIDT], the ranking member of the full committee.

Mr. HAMMERSCHMIDT. Mr. Chairman, I want to congratulate the chairman of the subcommittee, the gentleman from Minnesota [Mr. OBERSTAR], and the ranking member, the gentleman from Pennsylvania [Mr. CLINGER], for bringing the Airline Competition Enhancement Act to the floor, as well as the gentleman from New Jersey [Mr. ROE], the chairman of the full committee.

Mr. Chairman, during the last few years, several airlines have disappeared. Some have gone bankrupt. Others have merged with stronger carriers.

As a result, there is growing concern that the airline industry is becoming too concentrated. Although recent fare wars demonstrate that the industry is still highly competitive, there is reason to be concerned about the future. If recent trends continue and the number of airlines is further reduced, then fares will go up and customer service will go down.

Therefore, we need a bill like the Airline Competition Enhancement Act. This bill does not reregulate the industry or bailout particular airlines. What it will do is level the playing field among airlines, improve customer service, and reduce airline costs.

The main provision in this bill deals with computer reservation systems. Studies by the General Accounting Office, Justice Department, and Transportation Department have all found that there is a problem with these systems. They found that subtle bias in the systems tend to steer passengers to the largest airlines, thereby increasing concentration and reducing competition in the airline industry.

Unfortunately, DOT has been slow to deal with this problem. It promised to issue a rule 2 years ago but has still not done so.

Therefore, it is necessary for us to act. This bill would address the problem by requiring that computer systems treat all airlines equally.

It should be pointed out that, as this legislation moved through the committee, it was significantly scaled back in order to accommodate the objections of the airlines who opposed it.

For example, the controversial no-host provision was eliminated. The potentially burdensome arbitration provision was also eliminated. So, it should be apparent that we have gone more than halfway to resolve the objections that were raised by some airlines against this legislation.

In addition, several provisions have been added to the bill that will help all airlines by reducing their costs and improving their chances for survival. These include limitations—on criminal background checks; on the rate of random drug testing; and on passenger facility charges.

There is another provision in this bill that is particularly noteworthy. That is the provision on commuter airline reporting. The requirement that the delays of major airlines be reported and published has done much to improve the on-time performance of these carriers. This bill would extend the reporting and publication requirement to cover the delays and cancellations of commuter carriers as well. That should help to improve the service of this important segment of the aviation system.

Mr. Chairman, for all these reasons, I support this bill. Chairman ROE and Chairman OBERSTAR, as well as the ranking subcommittee member Mr. CLINGER, deserve a lot of credit for working through all the complicated technical issues in this legislation and for bringing such a good bill to the floor today. I would urge my colleagues to support it.

Mr. CLINGER. Mr. Chairman, I yield 6 minutes to the gentleman from Oklahoma [Mr. INHOFE], a distinguished member of the committee.

□ 1520

Mr. INHOFE. Mr. Chairman, I thank the gentleman for yielding me the time.

Like the gentleman from Illinois, I, too, am reluctant to stand up in opposition to a piece of legislation that is offered by the very honorable chairman of our subcommittee.

But today we are being asked to vote for a bill that proponents claim will enhance airline competition. The title of H.R. 5466, the Airline Competition Enhancement Act of 1992, like most legislation introduced around here, is misleading. This bill will not solve the problems of the airline industry, it will not enhance competition, and it will most assuredly not improve the computer reservation system business. What it will do is punish success, increase cost, and weaken U.S. competitiveness in the global market.

The problems of the U.S. airline industry have nothing to do with the successful development and marketing of two superior computer reservation sys-

tems; namely Sabre, owned by American Airlines, and Apollo, owned by COVIA partnership which is made up of United, USAir, British Airways, Swissair, Alitalia, KLM and Air Canada. Rather the airline industry problems are a direct result of a crumbling airway infrastructure, the propensity of airline executives in the 1980's to buy their competitors rather than compete with them, soaring costs of fuel and labor, health care expenses that are off the charts, increased barriers to doing business abroad, subsidized competition from abroad, and antiquated high density airport restrictions. Persons who argue that computer reservation systems are the villains of the industry are wrong.

Proponents will tell you that ownership of a computer reservation system by an air carrier gives the air carrier an unfair advantage. It does not. I wish every Member could have attended the demonstration forum of four competing computer reservation systems earlier this year. The Subcommittee on Aviation learned the real problem is that Sabre and Apollo are superior products and because new entrants are unable to provide as superior of service, Congress is being asked to penalize Sabre and COVIA so that competition can exist. Penalizing someone for being the best does not sound like competition to me, it sounds more like collusion.

Although we were able in committee to resolve several concerns, the bill is still objectionable. For one reason, it will void many existing contracts between travel agents and CRS vendors 6 months after enactment. It also removes a fundamental right of vendors to obtain liquidated damages in the event of a breach of contract. These two provisions are a radical departure from standard contracts and may be a first in terms of depriving business of basic property rights. I am not a lawyer, but I have been told that this could be unconstitutional because it denies due process.

To put it in simple terms:

A yes vote on H.R. 5466 tells American business, if you venture your capital by taking a calculated risk predicated on existing law and are successful, Government can come along and put you out of business.

A yes vote on H.R. 5466 will abrogate approximately 20,000 existing contacts freely entered into by individuals and businesses.

A yes vote on H.R. 5466 will tell investors that risk, hard work, and a superior product are not acceptable to the U.S. Congress because if you are too good you will be penalized.

When I was mayor of Tulsa, American Airlines made the decision to build and install the Sabre system in Tulsa. As a member of the airport authority, I sat in on a briefing American gave on the project. At that meeting we were told about a state-of-the-art computer reservation system that was clearly designed to be the best in the world. I must admit when I learned they expected to invest hundreds of millions of dollars for buildings, equipment, and personnel, I questioned the wisdom of the venture given the high risk involved. However, before leaving that meeting I was convinced that the Sabre system would be a success and complimented American for their courage and innovation.

In Oklahoma, innovation and creative investment are not unheard of. The term "stud horse notes" was originated in Oklahoma because when business and civic leaders wanted something for the community they would all put their names in a note. That is how the first bridge across the Arkansas River was built. At the time it was not only a tremendous investment but it was greeted by skeptics. Despite the naysayers it was built and it brought the oil fields closer to Tulsa which made us the oil capital of the world. Creative investment has also made Tulsa a world leader in aviation and aerospace.

And so the issue here today is fairness. If free enterprise in America is to survive, business must be able to count on the fact if they make a calculated risk, the rules will not change in the middle of the game. Today you are being asked to change the rules in the middle of the game for those businesses who were willing to take a risk in the late 1970's and invest to create a system that they believed would set the standard for travel services. They were right and now deserve the opportunity to reap the benefits of their calculated risk just as they would have had to accept the consequences if their high risk venture had not worked.

All I am asking of you today is to preserve the right of Americans to take risk and then benefit if they are successful by voting no on H.R. 5466.

Clearly, the issue is fairness.

Mr. OBERSTAR. Mr. Chairman, I yield 2 minutes to the gentleman from Texas [Mr. CHAPMAN].

Mr. CHAPMAN. Mr. Chairman, I thank the gentleman for yielding time to me, and I rise in reluctant opposition to this legislation.

I would like to focus on just one aspect that I think for me has made it impossible to support this bill. I know that it is legally permissible in some circumstances, when public policy demands it, that legislation be able to abrogate existing contracts. But I think we see the application of that principle only in extremely rare circumstances.

By current rule, by regulation, computer reservation system contracts now cannot exceed 5 years in length, and there are certain other requirements that are in place that completely remove, by regulation, the bias among the competing computer reservation systems.

The legislation that the House is being asked to approve today will abrogate, that it make meaningless, almost 20,000 existing contracts. What public policy argument exists that we should tell business people in America that their ability to contract, to freely negotiate and enter into agreements involving hundreds of millions of dollars in going to be destroyed and abrogated by the U.S. Congress? I think we should do that only under extremely rare circumstances.

This bill will do that. For what reason? Because this bill, quite honestly, decides who the winners and losers in the CRS business are going to be. Those that have invested hundreds, in fact hundreds of millions, even billions of dollars, American Airlines and United to develop the leading edge technology in this business are going to be penalized.

I urge the Congress not to adopt this legislation. Do not destroy the ability to contract. Defeat this bill.

Mr. CLINGER. Mr. Chairman, may I inquire of the Chair how much time is remaining on both sides?

The CHAIRMAN. The gentleman from Pennsylvania [Mr. CLINGER] has 18 minutes remaining, and the gentleman from Minnesota [Mr. OBERSTAR] has 12½ minutes remaining.

Mr. CLINGER. Mr. Chairman, I yield myself 2 minutes, and I do so to respond to the previous speaker with regard to the abrogation of contracts.

The bill would allow the abrogation of certain contracts between travel agents and the CRS owner, but only to the extent that the term of the contract is for more than 3 years. This means that contracts in their first or second year would remain in force until the end of their third year. Only those contracts that have gone beyond their third year would be abrogated.

In the second place, a legislative abrogation of a contract is not illegal or unconstitutional, as has perhaps been implied. Courts have repeatedly found laws which abrogated contracts to be proper and constitutional. In 1985, the Federal court in the District of Columbia found that the rules of the Civil Aeronautics Board that abrogated some computer reservation contracts were constitutional. So if legislation could not abrogate contracts, then people would get around the law by signing a contract before the law was enacted.

□ 1530

So the abrogation of some contracts, I would submit, is necessary in this case to ensure competition and give other computer system owners a chance to break into the field.

Currently, the big CRS owners use long-term contracts to lock up all the travel agencies. Under this bill the contract can be extended for the full 5 years, and I think importantly, if the

parties agree and if they, as has been suggested in our hearings, many travel agents would prefer the longer term, they are going to be perfectly able to have that, because if they both agree, the contract can be extended for the full 5 years.

Mr. Speaker, I reserve the balance of my time.

Mr. OBERSTAR. Mr. Chairman, I yield 2 minutes to the gentleman from Tennessee [Mr. CLEMENT].

Mr. CLEMENT. Mr. Chairman, I rise in vigorous opposition to H.R. 5466, the Airline Reservation Competition Act. I oppose this legislation because it goes against one of the bulwarks of our free enterprise system, the liberty to contract. Every member of this distinguished body should be aware that this legislation impinges upon this right. H.R. 5466 would deny CRS vendors the full measure of their damages in cases of a breach and it would abrogate thousands of existing contracts.

To begin with this bill would forbid parties from agreeing in advance on the calculation of damages in the event of a breach of contract, even though courts have repeatedly approved such liquidated damage clauses in CRS contracts as fair and not anticompetitive. The Supreme Court, lower courts and legal scholars have all praised these clauses as a means for avoiding uncertainty, lengthy litigation, and costs to courts and parties. In the case of CRS contracts, such clauses assist travel agents by establishing beforehand exactly how much they would owe if they decide to breach their contracts. This allows an agent to make an intelligent. calculated decision when determining whether to break an existing agreement to enter into a more attractive agreement with another CRS vendor.

Second, the bill would void thousands of existing CRS contracts. H.R. 5466 prohibits contracts of more than 3 years, even though many travel agents prefer long-term contracts and CRS vendors offer agents a choice in term length. The so-called grandfather clause in H.R. 5466 would only apply to those instances where parties to a contract agree in writing that the contract will be enforceable. This would, in effect, abrogate virtually thousands of contracts.

Mr. Chairman, the American people are alarmed that 20 percent of the major airlines are now in chapter 11 bankruptcy. During 1990 and 1991, the local girl scouts chapter in Nashville made more money selling cookies than the major airlines made selling tickets. We should not be passing legislation at this time that will destroy the value of vested property rights and disrupt the little economic stability that still exists in the airline industry.

I urge my colleagues to oppose this ill-advised legislation.

Mr. OBERSTAR. Mr. Chairman, I yield 2 minutes to the gentleman from Louisiana [Mr. HAYES].

Mr. HAYES of Louisiana. Mr. Chairman, there is a tremendous distinction between creating a level playing field and mandating a tie. Those are just the opposite.

We have airlines when in competition we decide to deregulate so the cream can rise to the top, and now we are looking at systems which are owned by those airlines that we want to mandate that they start all over again because apparently some of us did not like the score of the game. The point is that the competition resulted in two people excelling and others failing, and that is the point of having the competition.

It is more than just absurd to look at 10-year-old statistics at a time when perhaps computer systems contain some problems, not look at to date and look at both those who take reservations, those still in business, and we understand that, but we are sitting around for 2 hours this afternoon accomplishing absolutely nothing. And for what purpose? So that, once again, we can begin a playing field so that, once again, 10 years from now if two or three carriers or two or three entities come to the top, we are going to come back and remandate that we start over. I hope not.

The idea of perpetuating problems and a pointless bureaucracy and the addition of more and more burden to American business is why so many airlines have failed now.

Perhaps the management of too many of them resembled those who would want to pass this legislation. They are much more concerned with form than substance, in bottom line than initiative that profits in doing business.

So I oppose the legislation, and I hope that we can now get on with things that someone in America cares about and do things for companies that can, indeed, succeed if government can give them the impetus to do so and not worry about trying to level those who are neither competent nor ready in some superficial structure that will fail.

Mr. CLINGER. Mr. Chairman, I yield 5 minutes to the distinguished gentleman from California [Mr. MINETA], a very valued member of our committee.

Mr. MINETA. Mr. Chairman, I thank our very fine colleague, the gentleman from Pennsylvania, for yielding me this time.

Mr. Chairman, I rise in strong support of H.R. 5466, the Aviation Competition Enhancement Act of 1992.

I want to commend Aviation Subcommittee Chairman JIM OBERSTAR for his leadership on the important issue of aviation competition.

Mr. Chairman, I have long been concerned about unfair competition in the aviation industry regarding the use of computer reservation systems [CRS].

In 1983, I wrote the Civil Aeronautics Board [CAB] urging them to take immediate action to deal with the inequitable CRS practices in the industry. There was some limited response from the CAB on this problem. Unfortunately, the action by the CAB proved insufficient in addressing the CRS-related competition and fairness questions.

Over the last several years, there have been various studies, both Government and industry sponsored, as well as a Department of Transportation [DOT] notice of proposed rulemaking [NPRM], that have identified and outlined problems with the CRS issue.

I want to congratulate both the subcommittee chairman and the ranking Republican, for their leadership on H.R. 5466, the revised airline competition bill.

I am a cosponsor of this legislation which I believe makes considerable compromises; most notably, the deletion of the no-host and the arbitration provisions that were in the original legislation. These provisions raised the vociferous opposition that was expressed by specific members of the aviation CRS industry, and their deletion represents a formidable compromise.

Some of our House colleagues have raised concerns about the modification of CRS contracts. This argument is misguided. The courts have continually ruled that there is no impropriety in legislation or regulations limiting contracts, including existing contracts.

Mr. Chairman, in fact, the House has enacted legislation, as recently as last month, which affected existing contracts when we approved cable television regulatory legislation.

Mr. Chairman, the health of the Nation's commercial aviation industry is at stake. Competitiveness is the buzzword of the 1990's. However, buzzwords and catchy phrases are not going to promote adequate competition, safety, and capacity expansion in our Nation's civil aviation system.

H.R. 5466 will help us achieve these goals. They must be our priorities. I urge my colleagues to support this legislation.

Mr. OBERSTAR. Mr. Chairman, I yield 2 minutes to the gentleman from North Carolina [Mr. VALENTINE].

(Mr. VALENTINE asked and was given permission to revise and extend his remarks.)

Mr. VALENTINE. Mr. Chairman, the American airline industry is hurting. I believe we can all agree on this fact. Opinions diverge, however, on the best approach for restoring economic viability to this essential industry.

In my view, H.R. 5466, the Airline Competition Enhancement Act of 1992, is not the answer to the problems being experienced by domestic air carriers. This legislation does not address any of the critical problems facing the airline industry today.

Computer reservation systems are both complex and constantly undergoing change. Technological enhancement is the lifeblood of the CRS industry and is the reason that the United States currently leads the world in this industry. The last thing that the Congress needs to do is pass legislation that will impair technological development in the CRS industry.

The Department of Transportation has agreed to address the CRS issue within the next few months. I believe the Congress should give DOT this opportunity.

During consideration of H.R. 5466 by the Aviation Subcommittee and the Public Works and Transportation Committee, a consensus was not reached on this legislation. Members of the committee expressed grave reservations about provisions in the bill that would void existing CRS contracts.

The Congress should not abrogate contractual rights absent the most compelling circumstances. The hearing record simply does not provide such a rationale.

Therefore, I oppose H.R. 5466.

□ 1540

Mr. RITTER. Mr. Chairman, I yield myself 1½ minutes to respond to the gentleman from Louisiana, who somehow suggested that the two major owners of the two major computer reservation systems were somehow being discriminated against and being deprived of the fact that they made this substantial investment and should be permitted to benefit from that investment; but there have been investigations by the Department of Justice, by the Department of Transportation and by the General Accounting Office. They have all concluded that far from being abused by the system, in fact the two major airlines that own these systems have been abusing the system themselves. They have concluded that all the computer reservation systems used by travel agents are controlled by the large airlines and that they have monopoly powers over those CRS's and are using those powers to undermine airline competitors. Unfair CRS practices have been a significant factor in the recent serious decline in airline competition.

So rather than being abused, I would suggest that they in fact have been anticompetitive in the way they have abused these systems in the past.

Mr. OBERSTAR. Mr. Chairman, I yield 4 minutes to the gentleman from Texas [Mr. GEREN].

Mr. GEREN of Texas. Mr. Chairman, I thank the gentleman for yielding this time to me.

I also rise in reluctant opposition to this bill. Out of great respect for the chairman of this committee who has dealt for many years with this issue, I reluctantly oppose him, however.

I hope that as Members listen to this debate, they look beyond the very compelling short title of the bill, the Airline Competition Enhancement Act, and look at the facts. Everyone supports increased competition in the airline industry, and there is agreement on many facets of this bill; but there is serious disagreement on the provisions dealing with CRS, or computer reservation systems contracts. So before we pass this legislation today, we should think very carefully about what we are doing and the precedent that we are setting.

From its very founding, our Nation incorporated English common law into our judicial system. A fundamental tenet of that common law is the concept of the sanctity of contracts. As a general rule, if one person freely enters into a contract with another, both parties will be bound by the terms of that contract. If one party fails to fulfill its obligations, the other party may go to court to seek compliance or damages. However, it is this standard that we would abolish today for this one industry if this legislation passes.

Historically, CRS vendors have tended to market their systems on a 5-year basis. This reflects the high cost of the computer hardware involved which must be amortized over the course of the lease. At one time the lease payments from travel agents represented about half the revenue received by these CRS vendors. The other half came from the relatively modest fees charged to airlines, hotels and rental car companies each time a service was sold on the system, commonly referred to as booking fees.

More recently however, the monthly fees charged to travel agents have declined rapidly. In fact, some of the larger travel agents pay no monthly fees at all and a few are actually paid by the CRS vendor to take their system. In these circumstances, the CRS vendor counts on the revenues from the booking fees.

In recent years, some of the CRS vendors, in an effort to get more business, have offered travel agents substantial sums to break existing contracts with one CRS vendor and sign up with their system. The legislation we are considering today makes us part of those efforts. Often when doing this, the new vendor has agreed to indemnify the travel agent for any damages that may be charged for the breach of that contract.

As a result of the efforts by CRS vendors to force travel agents to breach their contracts, there have been numerous law suits filed concerning damages. Almost without exception, the courts have upheld the damages clauses in these contracts or awarded actual damages that provide full compensation for the CRS vendors harmed by the breach. This bill would overrule those court decisions and create new rules for this one industry that do not apply to the rest of the business community.

Courts have long favored the concept of liquidated damages. they reduce litigation expenses and provide both parties with a clear understanding of their remedies.

This legislation would knock out the provisions in these contracts.

The proponents of the bill make much of the fact that the largest travel agent association supports this bill. Of course they do. It allows them to break contracts without any consequences. I understand this, but I do not think we should condone it by an act of Congress.

In fact, as if the damage provisions were not bad enough, the bill actually abolishes thousands of existing contracts within 6 months of the date of enactment. It takes these 5-year contracts, cuts them down to 3 years, destroying two-fifths of the property value here.

In this legislation, Congress would destroy a very valuable property right without justification and without compensation. This is an unjustified taking with clear constitutional implications.

Let me address the two primary arguments for this bill. The first is the argument that many lobbying for this bill, namely that CRS systems that have lost out in the competition over the last 10 years, they say the systems are biased. They say there is architectural bias.

Because of the efforts of Chairman OBERSTAR and others on this committee, this issue has been decided. There is no argument on that any longer. The architectural bias is being worked out of every system in operation today. This is not an issue in the legislation in front of us.

If a lobbyist has told you or your staff that CRS systems give preference to their owners in displaying information, they are mistaken. This practice was disallowed in 1984 and there have been no cases brought forward at the DOT or anywhere else that makes this contention.

Mr. Chairman, I urge my colleagues to vote against this bill. It is bad business. It is bad for airline competition and it frustrates the efforts of those who have invested billions of dollars in making ours the most competitive industry in the world.

Mr. BUSTAMANTE. Mr. Chairman, I rise in opposition to H.R. 5466. The White House recently decided to lift the regulatory moratorium so the Department of Transportation can expeditiously issue a final rule governing computer reservation.

DOT has said it may issue a final rule as early as next month. This decision is a direct result of efforts by members of the Aviation Subcommittee, and I commend my colleagues on their good work.

Now that Congress has done its job by making certain the executive branch does its job, we should let the agency with the expertise in this matter do its job. Congress does not have the technical expertise to be legislat-

ing solutions to the complex issues associated with the computer reservation industry. DOT does and has been crafting policies and solutions to these issues through the rulemaking process.

It would be wasteful and imprudent to ignore all the work that has gone into the rulemaking now that the process nears its end. Congress has done good work in this matter, and we should leave well enough alone and let DOT get on with its job.

Mr. EWING. Mr. Chairman, I rise in reluctant support of H.R. 5466, the Airline Competition Enhancement Act of 1992. This bill corrects inequities which currently exist in the Essential Air Service Program by opening up 24 additional slots at O'Hare International Airport for small communities in Illinois, Indiana, and Iowa.

Danville, IL, is a town in my district which, like many other small communities, lost guaranteed air service to O'Hare Airport and was instead guaranteed service into Midway Airport. For a struggling town like Danville, flights into Midway Airport are much less desirable because of the lack of connecting flights. Access to O'Hare is essential to make Danville more attractive to business and industry and I am very glad to see that this legislation takes steps to correct this problem.

At the same time, however, what this legislation gives in one area, it takes away in another. I am referring to the provisions in this bill dealing with computer reservation systems. Under the guise of enhancing competition and leveling the playing field, H.R. 5466 would infringe on private property rights by voiding thousands of existing CRS contracts and would unnecessarily intrude in an intraindustry battle.

H.R. 5466 would limit the length of a contract between a CRS vendor and a travel agent to 3 years. Existing 5-year contracts would be grandfathered only if both parties agreed in writing that the contract should continue. This provision would destroy existing contract rights and goes against all notions of fairness. Furthermore, by allowing travel agents to breach a 5-year contract before its natural end, the bill would deny CRS vendors the ability to collect damages under the contract.

Congress has the ability to impair private contracts only when an important public interest is at stake. This bill, however, serves no important public interest and instead simply rewards certain airlines who failed to take the risks and develop computer reservation systems. Over a decade ago, two airlines spent the time, money, and resources to develop such systems and now that they are profitable, the rest of the industry is beginning to complain about the unfair advantages of owning a CRS system. This bill punishes these two airlines for showing initiative and rewards the rest of the industry for failing to succeed in the business themselves.

I voted both in the Aviation Subcommittee and full Public Works and Transportation Committee for provisions which would make the contract provisions of this bill more fair. Unfortunately, these efforts were defeated and now we are left voting for a bill which accomplishes both bad and good. I will vote for H.R. 5466, Mr. Chairman, but would urge that the CRS provisions of this bill be removed so that we can pass a bill which is truly concerned with enhancing competition.

Mr. LEWIS of Florida, Mr. Chairman, I rise in strong opposition to H.R. 5466, the so-called Airline Competition Act.

As many of my colleagues have suggested, this bill should actually be called the Airline Re-Regulation, Punishment of Efficiency, and Unconstitutional Takings Act.

I am afraid some of my colleagues have a different view of competition than I do. I believe free market competition should reward good judgment—and punish bad.

Unfortunately, the sponsors of this bill think the opposite. They think those who benefit from wise choices should be punished, and those who make poor choices deserve a legislative remedy.

This legislation amounts to no more than an obvious money grab by those who did not share in the risk and cost of the development of computer reservation systems.

One need not look further than the fact that their competitors did not say a word during the years that the reservation systems were requiring huge capital investments and losing money. They only come to us now.

While claiming it to be a matter of principle, even the most ardent supporters of this bill do not pretend that this bill would be on the floor if these systems were still losing money.

Another interesting aspect of this bill is the warped logic in the committee report. Their entire rationale for this bill is built on the fact that regulation is needed because competition is lacking.

However, to buttress their arguments that regulation is needed to inspire competition, they cite a DOT finding that there has been no new entry into the CRS market since it was first regulated in 1984.

If you can follow it, their logic goes like this: We need regulation to foster competition, since competition has been lacking since we regulated.

In addition, arguments that this legislation is only a response to the lack of rulemaking on the part of DOT also ring hollow.

A reasonable amendment was offered in committee which would have allowed enactment of this bill only if DOT did not issue regulations by September 30. This amendment was narrowly defeated.

Clearly, if intent was to legislate only in the absence of rulemaking, they would have supported this amendment. That did not happen.

Finally, there is a real constitutional question here as to legislative takings of private property. By abrogating these contracts and prohibiting redress, we are taking property without just compensation.

Mr. Chairman, if this bill is truly intended to do what is claimed, it is unworkable and unconstitutional. If not, it should not be on the floor. In either case, it should be defeated.

Mr. CHANDLER. Mr. Chairman, I rise today to express my strong support for the Airline Competitiveness Enhancement Act, H.R. 5466. Leveling the playing field for all airline carriers is the intent of this critical piece of legislation.

Consumers have benefited as a result of airline deregulation. Lower ticket prices are one of the real benefits of a competitive airline market. Smaller domestic carriers such as Alaska Airlines have grown, creating more jobs and improving passenger service.

But today, the airline industry is volatile. Changing levels of passenger traffic and a sluggish economy have weakened the financial health of several U.S. airlines and resulted in the bankruptcy of others.

That is why enactment of the Airline Competitiveness Enhancement Act is critical before we begin to reregulate. It is our job in Congress to ensure that the system remain fair and competitive while protecting the public interest.

Mr. Chairman, I would urge my colleagues to recognize the rhetoric of the opponents of this bill for what it is—anticompetitive and protectionist. Competition is healthy and it benefits us all. A vote for this bill is a vote for competition, consumer choice, and a stronger U.S. economy. Vote yes on H.R. 5466, the Airline Competitiveness Enhancement Act.

Mr. BEREUTER. Mr. Chairman, this Member expresses his tentative support for H.R. 5466, the Airline Competitiveness Enhancement Act.

Although this legislation contains some very positive features and takes necessary steps toward improving airline competition which will benefit air travelers, it does so in a heavy-handed regulatory manner. Nevertheless, this Member believes that the measure should be advanced to allow for the refinement of the regulatory features which could result from action either in the other body or in conference. If such improvements are not made, this Member may well vote against the conference report.

This Member also expresses his desire that by advancing this bill, the House will send a strong signal to the Federal Aviation Administration that some further regulation of the computer reservation systems is necessary to protect the air-traveling public. Clearly, some changes must be made to promote competitiveness in the airline industry by changes in the reservation system or environment that now prevails.

Mr. CLINGER. Mr. Chairman, I yield back the balance of my time.

Mr. OBERSTAR. Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN. Pursuant to the rule, the amendment in the nature of a substitute printed in the bill shall be considered as an original bill for the purpose of amendment and each section is considered as having been read.

The Clerk will designate section 1.

The text of section 1 is as follows:

H.R. 5466

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 "Airline Competition Enhancement Act of 1992".

The CHAIRMAN. Are there any amendments to section 1? If not, the Clerk will designate section 2.

Mr. OBERSTAR. Mr. Chairman, I ask unanimous consent that the remainder of the Committee amendment in the nature of a substitute be printed in the RECORD and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from Minnesota?

There was no objection.

The text of the remainder of the Committee amendment in the nature of a substitute is as follows:

vendor, in the operation of its computer reservation system, may—

"(A)(i) make available to subscribers an integrated display in which information is ordered or emphasized based upon factors relating to air carrier identity; or

"(ii) supply information from its computer reservations system to any person creating or attempting to create such an integrated display if the vendor knows or has reason to know that such person intends to create or attempt to create such an integrated display; except that the prohibition contained in this clause shall not apply to the extent that the vendor is supplying the information to a subscriber creating, in accordance with the conditions of the exception contained in subsection (c)(1), an integrated display using information from the system;

"(B) make available, after September 30, 1994, to a subscriber any subscriber transaction capability which is more functional, timely, complete, accurate, reliable, secure, or efficient, is easier for the subscriber to use or access, or provides to the subscriber a different level of confirmation of transactions, with respect to one participant than with respect to any other participant; except to the extent that the vendor is offering the other participant the opportunity to participate in such capability at the same price and terms as other participants and the participant has not accepted such offer;

"(C) make available, after September 30, 1994, to a participant any participant transaction capability which is more functional, timely, complete, accurate, reliable, secure, or efficient with respect to one participant than with respect to any other participant; except to the extent that the vendor is offering the other participant the opportunity to participate in such capability at the same price and terms as other participants and the participant has not accepted such offer;

"(D) charge any separate participant fee for, or require compliance with any terms or conditions relating to, the provision of any computer reservation system feature, function, or service which the vendor offers as a separate option to the participant for the purpose of complying with the requirements of this subsection, unless such fee, terms, or conditions are reasonable; or

"(E) directly or indirectly prohibit a subscriber from obtaining or using any other computer reservation system.

"(3) PROHIBITION AGAINST INDUCING DISCRIMINATION.—No vendor or air carrier shall require, or provide any incentives to induce, any subscriber to use information from a computer reservation system to create an integrated display in which information is ordered or emphasized based upon factors relating to air carrier identity.

"(4) USE OF THIRD-PARTY HARDWARE, SOFTWARE, AND DATA BASES.—

"(A) IN GENERAL.—Except on grounds of demonstrated technological incompatibility, no vendor may prohibit or unreasonably restrict, directly or indirectly—

"(i) the interconnection to its computer reservation system equipment of computer hardware or software supplied by a person other than such vendor; or

"(ii) the use by a subscriber, to access directly any other computer reservation system or data base, of hardware and communications lines supplied by any other vendor.

"(B) SPECIFIED PROHIBITIONS.—The practices prohibited by subparagraph (A) include, but are not limited to, the following:

"(i) The imposition of fees in excess of reasonable levels to certify or interconnect third-party equipment or to use equipment supplied by any other vendor to access any other computer reservation system or data base.

"(ii) Undue delays or redundant or unnecessary testing before certifying or interconnecting such equipment or access.

"(iii) The imposition of requirements that subscribers use the vendor's computer reservation system for any minimum number or percentage of the subscriber's bookings.

"(iv) Refusals to provide any services, compensation, or other benefits normally provided subscribers on account of the subscriber's using third-party equipment or the subscriber's using the same equipment for access to both the vendor's computer reservations system and other computer reservation systems and data bases.

"(v) The termination of a subscriber contract because of the subscriber's use of third-party equipment or the use of the same equipment for access to the vendor's computer reservations system and any other computer reservation systems or data bases.

"(5) EXTENSION OF CONTRACT AS CONDITION TO PROVIDING ADDITIONAL SYSTEM COMPONENTS.—No vendor may require, as a condition for providing to a subscriber additional computer reservation system components (including software and enhancements), that the term of the subscriber contract for previously provided system components be extended.

"(6) USE OF SYSTEM IN SALE OF AIR TRANSPORTATION SERVICES.—No vendor may require use of its computer reservation system by the subscriber in any sale by the subscriber of air transportation services of the vendor.

"(7) USE OF SYSTEM AS CONDITION TO COMPENSATION FOR SALE OF SERVICES.—No vendor may require that a subscriber use or subscribe to its computer reservation system as a condition to the receipt of any compensation for the sale of air transportation services by the subscriber.

"(8) CONDITIONAL PRICES.—No vendor may charge prices to subscribers conditioned in whole or in part on the identity of air carriers whose air transportation services are sold by the subscriber.

"(b) SUBSCRIBER CONTRACT RESTRAINTS.—

"(1) TERM OF CONTRACT.—

"(A) GENERAL RULE.—Except as provided in subparagraph (B), no subscriber contract provision shall be enforceable in law or equity after the 180th day following the date of the enactment of this section to the extent that such provision provides for the term of the contract to be more than 3 years.

"(B) GRANDFATHER OF CERTAIN EXISTING CONTRACTS.—This paragraph shall not apply to a contract—

"(i) which is in effect on the date of the enactment of this section,

"(ii) which is for a term of not more than 5 years, and

"(iii) with respect to which all parties to the contract have agreed, in writing, after such date of enactment and before the 180th day following such date of enactment, that the contract will be enforceable, subject to other paragraphs of this subsection, until the last day of its term.

"(2) OTHER PROVISIONS.—No subscriber contract provision shall be enforceable in law or equity to the extent that such provision—

"(A) forms a basis for a claim of actual or liquidated damages by the vendor in the event of cancellation of the contract, except as follows:

"(i) damages related to the vendor's actual cost of removing its equipment from the subscriber's premises;

"(ii) the unamortized share of the vendor's actual cost of installing such equipment in the subscriber's premises exclusive of any element of capital investment in such equipment; and

"(iii) other amounts owed to the vendor by the subscriber during the unexpired term of the contract, but in no event including amounts which are in the nature of a penalty for cancellation or which otherwise become due upon cancellation;

"(B) extends, or provides for the extension of, the contract beyond its stated date of termination, whether because of the addition or deletion of equipment or because of some other event;

"(C) provides an expiration date later than the earliest expiration date of any other contract for computer reservations services or equipment between the same subscriber and vendor;

"(D) directly or indirectly requires that the subscriber use the vendor's computer reservations system for a minimum volume of transactions, whether measured as an absolute number, a percentage of total transactions of any kind, or otherwise (including making failure to comply with such a requirement a breach or violation of the contract or a ground for termination of the contract); and

"(E) directly or indirectly requires the subscriber to use a minimum number or ratio of system components based upon or related to the number of system components leased from another vendor (including making failure to comply with such a requirement a breach or violation of the contract or a ground for termination of the contract).

"(c) PROHIBITION OF SUBSCRIBER MODIFICATION OF INFORMATION.—No subscriber may use computer software or hardware to modify information in a computer reservation system or derived from a computer reservation system in such a way as to produce—

"(1) integrated displays of such information in which information is ordered or emphasized based on factors relating to air carrier identity, except that the subscriber may use the software or hardware to create such displays of air transportation services—

"(A) if, before such use, the displays have been requested by a customer of the subscriber in writing;

"(B) if the request is kept on file by the subscriber until there has been a period of at least 2 years in which the customer has not purchased any services from the subscriber; and

"(C) if the software or hardware is used only with respect to such customer; or

"(2) displays of such information which provide subscriber transaction capability which violates subsection (a)(2)(B) or participant transaction capability which violates subsection (a)(2)(C).

"(d) REPORTING.—

"(1) QUARTERLY REPORTS.—Not later than the last day of the 1st calendar quarter following the date of the enactment of this section and of each calendar quarter following such 1st calendar quarter and ending on or before December 31, 1994, each vendor shall submit to the Secretary a report describing the manner in which the vendor proposes to achieve and is achieving compliance with subsections (a)(2)(A), (a)(2)(B), (a)(2)(C), and (a)(2)(D).

"(2) REPORT OF SECRETARY.—On or before July 31, 1993, the Secretary shall transmit to the Committee on Public Works and Transportation of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate a report, based on the reports filed by vendors pursuant to paragraph (1) of this subsection—

"(A) which describes the progress which each vendor has made in achieving compliance with subsections (a)(2)(A), (a)(2)(B), (a)(2)(C), and (a)(2)(D);

"(B) which compares and contrasts the participant transaction capabilities and subscriber transaction capabilities, including the protocols of each vendor with each participant; and

"(C) which includes a tentative finding by the Secretary as to whether each vendor is making satisfactory progress toward, and is likely to achieve, compliance with each of such subsections in accordance with any time limit contained in such subsection.

The Secretary shall provide each vendor a copy of the report transmitted under this paragraph within 30 days after the date of such transmittal.

"(3) SUPPLEMENTAL VENDOR REPORT.—If the report transmitted under paragraph (2) includes a finding of the Secretary that a vendor is not making satisfactory progress toward, or is not likely to achieve, compliance with subsection (a)(2)(A), (a)(2)(B), (a)(2)(C), or (a)(2)(D) in accordance with any time limit contained in such subsection, the Secretary shall require the vendor to submit to the Secretary a supplemental report describing the manner in which the vendor proposes to achieve compliance with such subsection.

"(4) MAINTENANCE OF RECORDS.—Not later than 90 days after the date of the enactment of this section, the Secretary shall issue regulations requiring each vendor to maintain such information concerning its computer reservation system as the Secretary determines is necessary to enable the Secretary to determine whether or not the vendor is making progress toward achieving compliance, or is in compliance, with this section. Such regulations shall establish the form and substance of the information to be maintained.

"(e) MONITORING OF PARTICIPANT FEES.—Not later than March 31, 1993, and each March 31 thereafter, the Secretary shall transmit, to the Committee on Public Works and Transportation of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate, a report on the participant fees charged by vendors during the preceding calendar year, including whether such fees represent an increase or decrease over the fees charged previously and whether, in the opinion of the Secretary, such fees are reasonable.

"(f) SPECIAL RULES FOR CERTAIN VIOLATIONS.—

"(1) APPLICABILITY.—The procedures and time limits set forth in this subsection shall apply to any complaint filed with the Secretary alleging a violation of this section (including any regulation issued to carry out this section or otherwise relating to computer reservation systems).

"(2) DEADLINE FOR DECISION WITH RESPECT TO A COMPLAINT.—Not later than the 90th day following the date of the filing of a complaint to which this subsection applies, the Secretary shall issue—

"(A) on the basis of the information filed with respect to the complaint and any other information available to the Secretary, an order which determines that there is not a material issue of fact with respect to the complaint and—

"(i) which finds that the violation has not occurred and dismisses the complaint; or

"(ii) which finds, after compliance with the procedures of section 1002(c) of this Act, that the violation has occurred and sets out the remedies and penalties that the Secretary determines are appropriate for the violation and the information forming the basis for such finding;

"(B) a consent order which sets out the remedies and penalties which the Secretary determines are appropriate and to which the alleged violator has agreed; or

"(C) for a determination of whether or not the violation has occurred and appropriate remedies and penalties for the violation if the violation has occurred, an order instituting a proceeding which includes an oral hearing on the record before an administrative law judge in accordance with section 554 of title 5, United States Code.

"(3) PARTIES TO AN ALJ PROCEEDING.—If the Secretary issues an order instituting a proceeding before an administrative law judge under this subsection, both the Department of Transportation and the person filing the complaint shall be parties to the proceeding if they so elect, and the administrative law judge may designate additional parties to the proceeding.

"(4) POWER OF ALJ TO COMPEL PRODUCTION OF DOCUMENTS.—An administrative law judge to whom a complaint under this subsection is assigned may compel the production of documents and other information necessary to determine whether the violation has or has not occurred.

"(5) DEADLINE FOR ALJ DECISION.—Not later than the 270th day following the date on which the Secretary issues an order instituting a proceeding before an administrative law judge under this subsection, the judge shall issue an order—

"(A) which finds that no violation has occurred and dismisses the complaint; or

"(B) which finds that a violation has occurred and sets out the remedies and penalties that the administrative law judge determines are appropriate for such violation.

"(6) DEADLINE FOR FINAL ORDER.—Not later than the 90th day following the date of issuance an order by an administrative law judge under this subsection, the Secretary shall issue a final order with respect to the complaint. If the Secretary does not issue the final order by the last day of such 90-day period, the order of the administrative law judge shall be deemed to be a final order of the Secretary.

"(g) TREATMENT OF CERTAIN REDUCED CRS SERVICES.—If any computer reservation system service being provided to a participant in such system for a participant fee is reduced without a corresponding reduction in the participant fee, the participant fee shall be treated, for purposes of this section, as being increased by the vendor.

"(h) REGULATIONS.—

"(1) GENERAL AUTHORITY.—The Secretary may issue regulations to carry out the objectives of this section and such other regulations relating to computer reservation systems as the Secretary determines appropriate. Such regulations shall not be inconsistent with the provisions of this section.

"(2) ENFORCEABILITY.—The enforceability of this section shall not be affected by any delay or failure of the Secretary to issue regulations to carry out the objectives of this section.

"(i) DEFINITIONS.—For purposes of this section, the following definitions apply:

"(1) COMPUTER RESERVATIONS SYSTEM.—The term 'computer reservations system' means—

"(A) a computer system which is offered to subscribers for use in the United States and contains information on the schedules, fares, rules, or seat availability of 2 or more separately identified air carriers and provides subscribers with the ability to make reservations and to issue tickets; and

"(B) a computer system which was subject to the provisions of part 255 of title 14 of the Code of Federal Regulations (relating to computer reservation systems) on June 1, 1991.

"(2) COMPUTER SYSTEM.—The term 'computer system' means a unit of one or more computers, and associated software, peripherals, terminals, and means of information transfer, capable of performing information processing and transfer functions.

"(3) INTERNAL RESERVATION SYSTEM.—The term 'internal reservation system' means a computer system which contains information on airline schedules, fares, rules, or seat availability and is used by an air carrier to respond to inquiries made directly to the carrier by members of the public concerning such information and to make reservations arising from such inquiries.

"(4) INTEGRATED DISPLAY.—The term 'integrated display' means a computerized display of information which relates to air carrier schedules, fares, rules, or availability and is designed to include information pertaining to more than 1 separately identified air carrier. Such term excludes the display of data from the internal reservations system of an individual air carrier when provided in response to a request by a ticket agent relating to a specific transaction.

"(5) PARTICIPANT.—The term 'participant', as used with respect to a computer reservations system, means an air carrier which has its flight schedules, fares, or seat availability displayed through such system.

"(6) PARTICIPANT FEE.—The term 'participant fee' means any fee, charge, penalty, or thing of value contractually required to be furnished to a vendor by a participant for display of the flight schedules, fares, or seat availability of the participant through the computer reservation system of the vendor or for other computer reservation system services provided to the participant.

"(7) PARTICIPANT TRANSACTION CAPABILITY.—The term 'participant transaction capability' means a service, product, function, or facility with respect to any computer reservation system which is provided by a vendor to any participant and which is capable of benefiting the air transportation business of such participant, including the quality, reliability, and security of communications provided by the vendor linking such vendor's computer reservation system to the computer system or data bases of any participant, the loading into the system of information on schedules, fares, rules, or seat availability, the booking or assignment of seats, the issuance of tickets or boarding passes, the retrieval of data from the system, or a means of determining the timeliness with which a participant will receive payment for air transportation sold through the system.

"(8) PROTOCOL.—The term 'protocol' means a set of rules or formats which govern the information transfer between and among computer reservation systems, participants, and subscribers.

"(9) SUBSCRIBER.—The term 'subscriber' means a ticket agent which uses a computer reservation system in the sale and issuance of tickets for air transportation.

"(10) SUBSCRIBER CONTRACT.—The term 'subscriber contract' means an agreement, and any amendment thereto, between a ticket agent and a vendor for the furnishing of computer reservations services to such subscriber.

"(11) SUBSCRIBER TRANSACTION CAPABILITY.—The term 'subscriber transaction capability' means any capability offered through a computer reservation system to a subscriber with respect to air transportation, including the capability of a ticket agent through a computer reservations system to view information on airline schedules, fares, rules, and seat availability or to book space, assign seats, or issue tickets or boarding passes for air transportation to be provided by air carriers.

"(12) VENDOR.—The term 'vendor' means any person who owns, controls, or operates a computer reservations system.".

(b) CONFORMING AMENDMENT TO TABLE OF CONTENTS.—The table of contents contained in the first section of the Federal Aviation Act of 1958 is amended by adding at the end of the matter relating to title IV of such Act the following:

"Sec. 420. Computer reservations systems.

"(a) Prohibitions against vendor discrimination.

"(b) Subscriber contract restraints.

"(c) Prohibition of subscriber modification of information.

"(d) Reporting.

"(e) Monitoring of participant fees.

"(f) Special rules for certain nonfee violations.

"(g) Treatment of certain reduced CRS services.

"(h) Definitions.".

SEC. 3. PROTECTION OF SMALL COMMUNITY AIRLINE PASSENGERS.

(a) ACCESS TO HIGH DENSITY AIRPORTS.—Section 419(b) of the Federal Aviation Act of 1958 (49 U.S.C. App. 1389(b)) is amended by adding at the end the following new paragraph:

"(10) ACCESS TO HIGH DENSITY AIRPORTS.—

"(A) NONCONSIDERATION OF SLOT AVAILABILITY.—In determining what is basic essential air service and in selecting an air carrier to provide such service, the Secretary shall not give consideration to whether slots at a high density airport are available for providing such service.

"(B) MAKING SLOTS AVAILABLE.—If basic essential air service is to be provided to and from a high density airport, the Secretary shall ensure that a sufficient number of slots at such airport are available to the air carrier providing or selected to provide such service. If necessary to carry out the objectives of this subsection, the Secretary shall take such action as may be necessary to have such slots transferred or otherwise made available to the air carrier; except that the Secretary shall not be required to make slots available at O'Hare International Airport in Chicago, Illinois, if the number of slots available for basic essential air service to and from such airport is at least 132 slots.".

(b) TRANSFERS OF SLOTS AT HIGH DENSITY AIRPORTS.—Section 419(b)(7) of such Act (49 U.S.C. App. 1389(b)(7)) is amended—

(1) by striking "TRANSFER OF OPERATIONAL AUTHORITY AT CERTAIN" and inserting "TRANSFERS OF SLOTS AT";

(2) by striking "an airport at which the Administrator limits the number of instrument flight rule takeoffs and landings of aircraft" and inserting "a high density airport";

(3) by striking "operational authority" and inserting "slots";

(4) by striking "has to conduct a landing or takeoff" and inserting "have"; and

(5) by striking "such authority" the first place it appears and inserting "such slots";

(6) by striking "such authority is" and inserting "such slots are"; and

(7) by inserting "basic essential" after "used to provide".

(c) DEFINITIONS.—Section 419(k) of such Act (49 U.S.C. App. 1389(k)) is amended by adding at the end the following new paragraphs:

"(6) HIGH DENSITY AIRPORT.—The term 'high density airport' means an airport at which the Administrator limits the number of instrument flight rule takeoffs and landings of aircraft.

"(7) SLOT.—The term 'slot' means a reservation for an instrument flight rule takeoff or landing by an air carrier of an aircraft in air transportation.".

SEC. 4. LIMITATION ON STATUTORY CONSTRUCTION WITH RESPECT TO EMPLOYMENT INVESTIGATIONS.

(a) IN GENERAL.—Section 316 of the Federal Aviation Act of 1958 (49 U.S.C. App. 1357) is amended—

(1) by redesignating the second subsection (g), relating to air carrier and airport security personnel, and subsections (h), (i), (j), and (k) as subsections (h), (i), (j), (k), and (l), respectively; and

(2) in subsection (h)(1), as so redesignated, by adding at the end thereof the following new subparagraph:

"(D) LIMITATION ON STATUTORY CONSTRUCTION.—Nothing in the section shall require the Administrator to issue regulations requiring that employment investigations under this section include criminal history record checks if the Administrator determines that such record checks are not necessary to ensure air transportation security.".

(b) CONFORMING AMENDMENTS TO TABLE OF CONTENTS.—The portion of the table of contents contained in the first section of such Act under the side heading

"Sec. 316. Air transportation security.".

is amended—

(1) by redesignating items (g), (h), (i), (j), and (k) as items (h), (i), (j), (k), and (l), respectively; and

(2) by inserting after the item relating to subsection (f) the following:

"(g) Airport tenants security programs.".

SEC. 5. RULEMAKING ON RANDOM TESTING FOR PROHIBITED DRUGS.

Not later than 120 days after the date of the enactment of this Act, the Secretary of Transportation shall initiate a rulemaking proceeding to consider whether there should be a reduction in the annualized rate of random testing for prohibited drugs now required by the Secretary for personnel engaged in aviation activities. A final decision in such rulemaking proceeding shall be issued not later than 1 year after such date of enactment.

SEC. 6. CLARIFICATION OF PFC APPLICABILITY.

Section 1113(e)(1) of the Federal Aviation Act of 1958 (49 U.S.C. App. 1513(e)(1)) is amended by adding at the end thereof the following new sentence: "This subsection does not authorize the Secretary to grant a public agency authority to impose a fee for a passenger enplaning at an airport if the passenger did not pay for the air transportation which resulted in such enplanement, including any case in which the passenger obtained the ticket for the air transportation with a frequent flier award coupon without monetary payment.".

SEC. 7. CANCELLATIONS AND ON-TIME PERFORMANCE BY COMMUTER AIR CARRIERS.

(a) AMENDMENT OF REGULATIONS.—Not later than 120 days after the date of the enactment of this Act, the Secretary of Transportation shall amend part 234 of title 14 of the Code of Federal Regulations to require commuter air carriers to comply with the provisions governing on-time performance in such part.

(b) REPORTS.—Not later than the 30th day following the last day of each calendar month beginning after the 120th day following the date of the enactment of this Act, the Secretary of Transportation shall publish a report containing the percentage of flights of each commuter air carrier which were canceled during such calendar month.

(c) DEFINITION.—In this section, the term "commuter air carrier" means an air carrier (as defined by section 101 of the Federal Aviation Act of 1958) that provides air service in accordance with a published schedule and that primarily operates aircraft designed to have a maximum passenger seating capacity of 60 seats or less.

SEC. 8. DECLARATION OF POLICY.

(a) STRENGTHENING OF COMPETITION.—Section 102 of the Federal Aviation Act of 1958 (49 U.S.C. App. 1302) is amended by adding at the end the following new subsection:

"(c) STRENGTHENING OF COMPETITION.—In selecting an air carrier to provide foreign air transportation from among competing applicants to provide such transportation, the Secretary shall consider the strengthening of competition among air carriers operating in the United States in order to prevent undue concentration in the air carrier industry, in addition to considering the factors specified in subsections (a) and (b) of this section.".

(b) CONFORMING AMENDMENT.—The portion of the table of contents contained in the first section of such Act relating to section 102 is amended by adding at the end the following new item:

"(c) Strengthening of competition.".

□ 1550

AMENDMENT OFFERED BY MR. GLICKMAN

Mr. GLICKMAN. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. GLICKMAN: At the end of the bill, add the following new section:

SEC. 9. LOVE FIELD, TEXAS.

Section 29 of the International Air Transportation Competition Act of 1979 (94 Stat. 48–49) is repealed.

Mr. OBERSTAR. Mr. Chairman, I reserve a point of order on the amendment.

The CHAIRMAN. The gentleman from Minnesota [Mr. OBERSTAR] reserves a point of order on the amendment, and the gentleman from Kansas [Mr. GLICKMAN] may proceed up to 5 minutes.

Mr. GLICKMAN. Mr. Chairman, this is a perennial visit for me. It is my obsession while I am in Congress to try to repeal something called the Wright amendment. I see my colleague, the gentleman from California [Mr. MINETA] kind of smiling at me because he knows I have had an interest in this for some time.

I am aware that the gentleman from Minnesota has reserved a point of order and will probably offer one.

This is a bill that affects airline competition. This is a bill that deals with the computer reservation system. It also deals with systems involving slots of high-density airports, and I thought this would be an appropriate bill to offer my amendment to repeal something called the Wright amendment, which is named after our former Speaker, Jim Wright.

Let me just briefly give my colleagues a little bit of the history. In 1979, at the request of former Speaker Jim Wright, the law was changed to restrict operations at one airport in this country. That airport was called Dallas Love Field. The reason for that is that the Dallas-Fort Worth Airport had just been built. It cost a lot of money, and the folks in the area, particularly the Fort Worth, TX area, did not want Dallas Love Field, which was near downtown Dallas, to operate. After all, a lot of bonds had been issued to build Dallas-Fort Worth. So the law restricted Love Field. Actually I believe folks thought that Love Field would close, but it did not.

But here is what the law said: It said that to use Dallas Love Field you could only fly out of there to points within the State of Texas, intrastate, and the four contiguous States to Texas, Louisiana, Arkansas, Oklahoma, and New Mexico. It is the only airport in America that a person is restricted to, based upon his or her geographical location, from flying in and out of the airport.

This was done basically, hoping that the Dallas-Fort Worth Airport would survive and Dallas Love Field would fall apart. Little did they know that a little carrier out of Dallas called Southwest Airlines would come into existence. They serve a lot of places in this country. They are the only really genuine low-cost airline in America.

They do a splendid job. They headquartered at Love Field, and they began to fly intrastate. They also began to fly in the four contiguous States, and lo and behold, they are successful. Every place they flew, fares were brought down, not only by them but by their competitors like American and Delta. They would fly from the same places, usually from the other airport. American and Delta were flying from the Dallas-Fort Worth Airport. But wherever there were competing carriers flying competing service into the Dallas market with Southwest, fares were brought down.

Now, here is the problem. My community of Wichita, KS, is located 50 miles from the Oklahoma border. Under Federal law, Wichita cannot be served out of Dallas Love Field because we are not in a State contiguous to Texas. Imagine a law that would do that. I think the law is unconstitutional on its face, and it is in the process of being challenged right now.

So what happens is that if you live in a town like Albuquerque, which is in a contiguous State to Texas, which is about 600 miles from Dallas, your fares are about a third of what they are to Dallas from Wichita. They are about one-third as much, and the distance is about two times as great. The reason for that is because Dallas Love Field has Southwest Airlines, has service that is protect under Federal statute, and the folks in that part of the country, the folks in north Texas, just like it the way it is. They do not want to make any changes.

So my amendment would repeal this blatantly discriminatory amendment which strikes a dagger at the heart of genuine aviation competition in this country.

I have explained this many times. My full statement in the RECORD will explain it further. To repeal this would mean lower cost air service to Wichita, to Phoenix, to St. Louis, to Chicago. It would mean a bonanza in terms of consumers in this country.

Mr. RHODES. Mr. Chairman, will the gentleman yield?

Mr. GLICKMAN. I am glad to yield to my colleagues, the gentleman from Arizona.

Mr. RHODES. Mr. Chairman, I thank the gentleman very much for yielding, and I certainly support him in his efforts to repeal this piece of Federal law which never should have gone into law to begin with. My reasons are parallel to the gentleman's, but there is one other reason. The gentleman mentioned the start of a little airline called Southwest. At about the same time there was the start of a little airline in Phoenix called America West, and America West and Southwest serve pretty much the same markets. But because America West cannot utilize the facilities of Love Field and because Southwest is protected by this piece of Federal legislation that the gentleman has referred to, and because basically Love Field is its little playground and nobody else is there, America West is unable to compete effectively in terms of price with Southwest on their parallel routes.

The name of this legislation is the Airline Competitiveness Enhancement Act, and certainly if we are talking about enhancing competitiveness in the airline industry, one of the very first things we ought to be doing is looking at situations such as the one the gentleman has described at Love Field, protected by Federal law, where one airline is given a clear competitive advantage over another one in markets that they jointly serve. There is certainly no doubt that the fact that America West, which finds itself working its way out of chapter 11 bankruptcy would be enhanced directly if it were able to compete directly with Southwest Airlines. Certainly there is no doubt they were put into this financial situation because of this anticompetitive provision.

The CHAIRMAN. The time of the gentleman from Kansas [Mr. GLICKMAN] has expired.

(By unanimous consent, Mr. GLICKMAN was allowed to proceed for 1 additional minute.)

Mr. GLICKMAN. Mr. Chairman, I will not talk much longer on this matter. I would just make this point; I am not going to belabor the issue. There may have been some reason for this amendment originally. I do not think there was, but I have a biased view of this. But after 12 years, imagine this: We are engaging in a game of protecting one airline and one or two carriers, and in the meantime the airfares of people all over this country are much higher than they need to be because of this blatantly discriminatory piece of legislation.

It may be that I will not get this amendment adopted because of a point of order being raised against it, but if I do not, I want to tell everybody that I am going to try it on every bill I can think of. We are going to be a lot more creative in the future in terms of the types of legislation we are going to offer this amendment to, and I say to the folks who are interested in it that they ought to know I am going to dog them on this issue until I get it resolved.

POINT OF ORDER

Mr. OBERSTAR. Mr. Chairman, I insist on my point of order.

The CHAIRMAN pro tempore. The gentleman will state his point of order.

Mr. OBERSTAR. Mr. Chairman, I make the point of order that the amendment is not germane and violates clause 7 of rule XVI of the House.

The amendment deals with air carrier certificates to provide air transportation at Love Field, TX. The bill does not deal with air carrier certificates. The bill deals with economic regulation in the context of the Federal Aviation Act only. This proposed amendment deals with economic regulation in an entirely different context by amending the International Air Transportation Competition Act of 1979.

The CHAIRMAN pro tempore. Does the gentleman from Kansas [Mr. GLICKMAN] wish to be heard on the point of order?

Mr. GLICKMAN. Yes, Mr. Chairman, if possible, I would like to be heard on the point of order.

This is a bill called the Airline Competition Enhancement Act of 1992. This is a bill dealing with airline competition issues, dealing not only with the computer reservation system but amending several provisions of the Federal Aviation Act of 1958 involving slots at major airports, rulemaking on random testing for prohibited drugs, cancellation and on-time performance by commuter air carriers, and a new declaration of policy called strengthening of competition which provides that in selecting an air carrier to provide foreign air transportation from among competing applicants, the Secretary shall consider the strengthening of competition. And it goes on and talks about these particular areas.

If there is any bill that deals with the underlying issue of competition at airports and among airlines, this is the bill. The bill relates directly to competition under the basic statute, which is the Airline Competition Enhancement Act.

I realize I did not draft this as an amendment to the 1958 Federal Aviation Act, but the net effect is the same. This bill relates to the competition at a single airport in this country and to air fares generally in America.

So, Mr. Chairman, I would argue that the point of order should be overruled.

The CHAIRMAN pro tempore (Mr. HALL of Ohio). Does the gentleman from Arizona [Mr. RHODES] wish to be heard on the point of order?

Mr. RHODES. I do, Mr. Chairman.

Mr. Chairman, the provisions of this bill deal with access to a limited number of airports by a limited number of air carriers. The Glickman amendment deals with access to a specific airport by again a limited number of air carriers. There are specific provisions in the bill that deal with access to airports. The Glickman amendment deals with access to airports.

Mr. Chairman, the Glickman amendment should be ruled to be germane and in order.

□ 1600

The CHAIRMAN pro tempore. Is there any other Member that desires to be heard on the point of order of the gentleman from Kansas [Mr. GLICKMAN]?

If not, the Chair is prepared to rule.

The gentleman from Minnesota [Mr. OBERSTAR] makes the point of order that the amendment offered by the gentleman from Kansas [Mr. GLICKMAN] is not germane to the bill.

The bill addresses competition in and economic regulation of aviation in the context of the Federal Aviation Act of 1958. In proposing changes to existing law the bill confines itself to amendments to that act.

The amendment offered by the gentleman from Kansas [Mr. GLICKMAN] proposes to repeal certain route restrictions in the International Air Transportation Competition Act of 1979, but not amended by the spending bill.

As such, the amendment is not germane. The point of order is sustained.

Are there any further amendments to the bill?

If not, the question is on the committee amendment in the nature of a substitute.

The committee amendment in the nature of a substitute was agreed to.

The CHAIRMAN. Under the rule, the Committee rises.

Accordingly, the Committee rose; and the Speaker pro tempore. (Mr. MONTGOMERY) having assumed the chair, Mr. HALL of Ohio, Chairman pro tempore of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 5466) to amend the Federal Aviation Act of 1958 to enhance competition among air carriers by prohibiting an air carrier who operates a computer reservation system from discriminating against other air carriers participating in the system and among travel agents which subscribe to the system, and for other purposes, pursuant to House Resolution 541, he reported the bill back to the House with an amendment adopted by the Committee of the Whole.

The SPEAKER pro tempore. Under the rule, the previous question is ordered.

The question is on the amendment.

The amendment was agreed to.

The SPEAKER pro tempore. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

The SPEAKER pro tempore. The question is on the passage of the bill.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. OBERSTAR. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The vote was taken by electronic device and there were—yeas 230, nays 160, not voting 44, as follows:

[Roll No. 386]

YEAS—230

Abercrombie	Hall (OH)	Owens (NY)
Alexander	Hamilton	Owens (UT)
Anderson	Hammerschmidt	Pallone
Andrews (ME)	Hansen	Pastor
Andrews (TX)	Henry	Payne (NJ)
Applegate	Hertel	Pease
Archer	Hobson	Pelosi
Aspin	Horn	Penny
Atkins	Horton	Perkins
Bacchus	Hoyer	Peterson (FL)
Bateman	Hubbard	Peterson (MN)
Beilenson	Huckaby	Petri
Bennett	Hughes	Pickett
Bentley	Hunter	Pursell
Bereuter	Hutto	Rahall
Berman	Jacobs	Ramstad
Blackwell	Jefferson	Rangel
Boehlert	Johnson (CT)	Ray
Bonior	Johnson (SD)	Reed
Borski	Jones (GA)	Rhodes
Boucher	Jones (NC)	Ridge
Brooks	Jontz	Riggs
Brown	Kanjorski	Rinaldo
Bruce	Kaptur	Ritter
Bunning	Kasich	Roberts
Camp	Kennedy	Roe
Cardin	Kildee	Roemer
Carper	Kleczka	Roukema
Carr	Kolter	Rowland
Chandler	Kopetski	Russo
Clinger	Kostmayer	Sabo
Coleman (MO)	Kyl	Sanders
Collins (MI)	LaFalce	Santorum
Conyers	Lantos	Savage
Coughlin	Laughlin	Sawyer
Coyne	Levin (MI)	Scheuer
Cramer	Levine (CA)	Schulze
Darden	Lewis (GA)	Schumer
de la Garza	Lloyd	Serrano
DeLauro	Long	Sharp
DeLay	Lowey (NY)	Shaw
Dellums	Luken	Shays
Derrick	Machtley	Shuster
Dickinson	Manton	Sikorski
Dicks	Martin	Skaggs
Dingell	Martinez	Skelton
Dixon	Matsui	Slattery
Donnelly	Mazzoli	Slaughter
Dooley	McCloskey	Smith (NJ)
Dorgan (ND)	McDade	Smith (TX)
Downey	McEwen	Snowe
Early	McGrath	Solarz
Eckart	McHugh	Spratt
Edwards (CA)	McMillen (MD)	Stark
Emerson	Meyers	Stokes
Engel	Mfume	Studds
Espy	Mineta	Swift
Evans	Mink	Tallon
Ewing	Moakley	Taylor (NC)
Fazio	Molinari	Thomas (GA)
Feighan	Mollohan	Traficant
Fields	Moody	Upton
Foglietta	Moran	Vander Jagt
Ford (MI)	Morella	Volkmer
Ford (TN)	Mrazek	Vucanovich
Frank (MA)	Murphy	Waters
Gejdenson	Nagle	Waxman
Gekas	Neal (MA)	Weiss
Gephardt	Nichols	Weldon
Gibbons	Nowak	Wheat
Gilchrest	Nussle	Whitten
Gillmor	Oakar	Williams
Gilman	Oberstar	Wise
Glickman	Obey	Wolpe
Goodling	Olver	Wyden
Guarini	Ortiz	Young (FL)
Gunderson	Orton	

NAYS—160

Allard	Barrett	Browder
Allen	Bevill	Bryant
Andrews (NJ)	Bilbray	Burton
Annunzio	Bilirakis	Bustamante
Anthony	Bliley	Byron
Armey	Boehner	Callahan
Baker	Brewster	Campbell (CA)
Ballenger	Broomfield	Clement
Coble	Inhofe	Price
Coleman (TX)	James	Quillen
Collins (IL)	Johnson (TX)	Ravenel
Combest	Johnston	Regula
Condit	Kennelly	Rogers
Cooper	Klug	Rohrabacher
Costello	Kolbe	Ros-Lehtinen
Cox (CA)	Lagomarsino	Rose
Cox (IL)	Lancaster	Rostenkowski
Crane	LaRocco	Roth
Dannemeyer	Leach	Sangmeister
Davis	Lehman (FL)	Sarpalius
Doolittle	Lent	Saxton
Dornan (CA)	Lewis (CA)	Schaefer
Dreier	Lewis (FL)	Schiff
Duncan	Lightfoot	Schroeder
Durbin	Lipinski	Sensenbrenner
Edwards (OK)	Livingston	Sisisky
Edwards (TX)	Lowery (CA)	Skeen
English	Marlenee	Smith (FL)
Erdreich	Mavroules	Smith (OR)
Fascell	McCandless	Spence
Fawell	McCrery	Stallings
Fish	McCurdy	Stearns
Franks (CT)	McDermott	Stump
Frost	McMillan (NC)	Sundquist
Gallegly	McNulty	Swett
Geren	Michel	Synar
Gonzalez	Miller (OH)	Tauzin
Gordon	Miller (WA)	Taylor (MS)
Goss	Montgomery	Thomas (CA)
Gradison	Moorhead	Thomas (WY)
Grandy	Morrison	Thornton
Green	Myers	Torres
Hall (TX)	Natcher	Unsoeld
Hancock	Neal (NC)	Valentine
Harris	Oxley	Visclosky
Hastert	Packard	Walsh
Hayes (IL)	Panetta	Washington
Hayes (LA)	Parker	Wolf
Hefley	Patterson	Wylie
Hefner	Paxon	Young (AK)
Herger	Payne (VA)	Zeliff
Hochbrueckner	Pickle	Zimmer
Holloway	Porter	
Hopkins	Poshard	

NOT VOTING—44

Ackerman	Gingrich	Smith (IA)
AuCoin	Hatcher	Solomon
Barnard	Hoagland	Staggers
Barton	Houghton	Stenholm
Boxer	Hyde	Tanner
Campbell (CO)	Ireland	Torricelli
Chapman	Jenkins	Towns
Clay	Lehman (CA)	Traxler
Cunningham	Markey	Vento
DeFazio	McCollum	Walker
Dwyer	Miller (CA)	Weber
Dymally	Murtha	Wilson
Flake	Olin	Yates
Gallo	Richardson	Yatron
Gaydos	Roybal	

□ 1625

The Clerk announced the following pairs:

On this vote:

Mr. Hoagland for, with Mr. Chapman against.

Mr. Gingrich for, with Mr. Barton of Texas against.

Messrs. BILBRAY, ROSTENKOWSKI, and ZELIFF changed their vote from "yea" to "nay."

Mr. HUNTER, Mr. CRAMER, Mrs. MEYERS of Kansas, and Mr. KOSTMAYER changed their vote from "nay" to "yea."

So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

PERSONAL EXPLANATION

Mr. RUSSO. Mr. Speaker, on rollcall No. 386 I voted "aye." I intended to vote "no."

GENERAL LEAVE

Mr. OBERSTAR. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the bill just considered and passed.

The SPEAKER pro tempore (Mr. MONTGOMERY). Is there objection to the request of the gentleman from Minnesota?

There was no objection.

COMMENTS IN APPRECIATION OF MEMBERS AND STAFF FOR EFFORTS ON H.R. 5466

(Mr. OBERSTAR asked and was given permission to address the House for 1 minute.)

Mr. OBERSTAR. Mr. Speaker, I take this minute to express my appreciation to my colleagues on both sides of the aisle and on both sides of this issue for the high quality of the debate that unfolded in the discussion of this legislation. It was straightforward; Members expressed very firmly held views, and it was a high-quality debate.

I especially want to thank the gentleman from Illinois [Mr. LIPINSKI], and the gentleman from Texas [Mr. GEREN] for the high policy level on which they kept this debate. I particularly want to express my appreciation to the gentleman from Pennsylvania [Mr. CLINGER] for his splendid support and hard work throughout the elaboration of this legislation which has unfolded over many, many months. We came to a very, very fine conclusion.

Finally, Mr. Speaker, while all of our staff worked diligently and most professionably on this legislation, I want to single out and express my very deep appreciation to David Heymsfeld, of the staff of the Subcommittee on Aviation of the Committee on Public Works and Transportation. No one contributed more than David to the formulation of this monumental and highly complex legislation; to him I am deeply grateful.

□ 1630

LEGISLATIVE PROGRAM

(Mr. MICHEL asked and was given permission to address the House for 1 minute.)

Mr. MICHEL. Mr. Speaker, I have asked for this time that I may inquire of the distinguished majority leader how he intends to proceed for the balance of this legislative day before we embark upon our summer recess, and I am happy to yield to him for that purpose.

Mr. GEPHARDT. I thank the gentleman for yielding. It is our intention that a motion be made in a moment to go to conference on the Comprehensive National Energy Policy Act with a motion to instruct conferees, so we will know very quickly whether or not there will be a vote on that. I doubt there will be, but there may be.

After that, there will be no other votes this evening. We do not expect votes. If Members need a concrete, iron-clad, no-holds-barred assurance that there would never be a vote, I cannot give that. But I do not expect to vote after the possibility of a vote on the motion to instruct and to go to conference on the energy authorization.

Mr. MICHEL. Might I inquire then of the distinguished majority leader when Members will be advised of a tentative schedule, if it is no more than that, for when we return after Labor Day?

Mr. GEPHARDT. We will be prepared to announce the schedule for the week that we come back after we have finished tonight's business, in another hour or so.

Mr. MICHEL. I thank the distinguished majority leader.

APPOINTMENT OF CONFEREES ON H.R. 776, COMPREHENSIVE NATIONAL ENERGY POLICY ACT

Mr. SHARP. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 776) to provide for an improved energy efficiency, with Senate amendments thereto, disagree to the Senate amendments, and agree to the conference asked by the Senate.

The SPEAKER. Is there objection to the request of the gentleman from Indiana?

There was no objection.

MOTION TO INSTRUCT OFFERED BY MR. LENT

Mr. LENT. Mr. Speaker, I offer a motion to instruct.

The Clerk read as follows:

Mr. LENT moves that the Managers on the part of the House at the conference on the disagreeing votes of the two Houses on the Senate Amendment to the House bill, H.R. 776, be instructed to balance both energy conservation and energy efficiency with energy supply, achieve this goal in a manner consistent with environmental protection, and use market mechanisms and incentives rather than command-and-control regulations and government subsidies, within the scope of the conference.

The SPEAKER. The gentleman from New York [Mr. LENT] is recognized for 30 minutes.

Mr. LENT. Mr. Speaker, I understand that House conferees for H.R. 776, the Comprehensive National Energy Policy Act, will be appointed shortly. I am grateful that we are appointing House conferees today.

It has taken us a long time to get to this point in the process of enacting a comprehensive national energy policy. I, along with my fellow Republican Members of the energy and commerce committee, started us down this path shortly after Iraq invaded Kuwait in 1990.

We introduced our Comprehensive Energy Policy Act then. The President then took the lead by sending to Congress the National Energy Strategy Act which was introduced in March 1991. After much effort by the leadership of the energy committees in both bodies, we are today finally taking this important step to start the conference on the bill.

My motion to instruct should assist conferees in their efforts to fashion a bill that the House and the President will find acceptable. The motion instructs the conferees to: First, balance both conservation and energy efficiency with energy supply; second, achieve this goal in a manner consistent with environmental protection; and third, use market mechanisms and incentives rather than command-and-control regulations and government subsidies. The President has stated that he will only sign a bill that is balanced in this manner. The instructions in my motion will help ensure that result.

Accordingly, I strongly urge my colleagues to support my motion.

Mr. SHARP. Mr. Speaker, will the gentleman yield?

Mr. LENT. I yield to the gentleman from Indiana, chairman of the Subcommittee on Energy and Power.

Mr. SHARP. Mr. Speaker, we have no objection to the gentleman's motion. We have tried to work within these parameters as we built this legislation to begin with.

Mr. LENT. Mr. Speaker, I yield back the balance of my time.

The SPEAKER. The question is on the motion offered by the gentleman from New York [Mr. LENT].

The motion was agreed to.

A motion to reconsider was laid on the table.

The SPEAKER. The Chair appoints the following conferees and reserves the right to appoint additional conferees or to make changes in the conference appointments:

From the Committee on Energy and Commerce, for consideration of the House bill (except title XIX), and the Senate amendment (except title XX), and modifications committed to conference: Messrs. DINGELL, SHARP, MARKEY, TAUZIN, TOWNS, SWIFT, SYNAR, LENT, MOORHEAD, AND DANNEMEYER; Provided, that Mr. BLILEY is appointed only for consideration of titles I, VII, XII, XVII, and XXXI of the House bill, and titles V, VI and XV of the Senate amendment;

Mr. FIELDS is appointed only for consideration of titles III, IV, V, XIV, XVIII, and XX of the House bill, and titles IV and XVI of the Senate amendment.

Mr. OXLEY is appointed only for consideration of titles II, VI, VIII, IX, X, XI, XIII, XV, XVI, XXI, XXII, XXIII, XXIV, XXV, XXVI, XXVII, XXVIII, XXIX, and XXX of the House bill, and titles I, II, VIII, IX, X, XI, XII, XIII, XIV, XVII, XVIII, XIX, and XXI of the Senate amendment; and in lieu of Mr.

LENT for title VII of the House bill and title XV of the Senate Amendment.

From the Committee on Ways and Means, for consideration of title XIX of the House bill, and section 19108 and title XX of the Senate amendment, and modifications committed to conference: Messrs. ROSTENKOWSKI, GIBBONS, PICKLE, RANGEL, STARK, ARCHER, VANDER JAGT, AND CRANE.

As additional conferees from the Committee on Ways and Means, for that portion of section 1101 of the House bill which adds new section 1701 and 1702 to the Atomic Energy Act of 1974), and that portion of section 10103 of the Senate amendment which adds new sections 1701 and 1702 to the Atomic Energy Act of 1954, and modifications committed to conference: Messrs. ROSTENKOWSKI, GIBBONS, PICKLE, RANGEL, STARK, JACOBS, FORD of Tennessee, ARCHER, VANDER JAGT, CRANE, and SCHULZE.

As additional conferees from the Committee on Education and Labor, for consideration of section 20141, 20142, 20143 (except those portions which add new sections 9702(a)(4), 9704, 9705(a)(4), 9706, 9712(d)(5) to the Internal Revenue Code of 1986) of the Senate amendment, and modifications committed to conference: Messrs. FORD of Michigan, CLAY, MILLER, of California, KILDEE, and WILLIAMS, Mrs. ROUKEMA, Mr. FAWELL, and Mr. BALLENGER.

As additional conferees from the Committee on Education and Labor, for consideration of those portions of section 901 which add new sections 1305 and 1312 to the Atomic Energy Act of 1954, that portion of section 1101 which adds a new section 1704 to the Atomic Energy Act of 1954, and sections 4402, 6601–04, 10104, 13119, and 19113 of the Senate amendment, and modifications committed the conference: Messrs. FORD of Michigan, WILLIAMS, and GOODLING.

As additional conferees from the Committee on Foreign Affairs, for consideration of sections 1205, 1208, 1213–14, 1302–05, 1606, and 2481 of the House bill, and sections 5101–04, that portion of section 5201 which adds a new section 6 to the Renewable Energy and Energy Efficiency Technology Competitiveness Act of 1989, 14108–09, and 14301–02, of the Senate amendment, and modifications committed to conference: Messrs. FASCELL, GEJDENSON, WOLPE, LEVINE of California, FEIGHAN, JOHNSTON of Florida, ENGEL, BROOMFIELD, ROTH, MILLER of Washington, and HOUGHTON.

As additional conferees from the Committee on Foreign Affairs, for consideration of section 903, 1205, 1208, 1211, 1213–14, 1302–05, 1607, 2481, and 2704, of the House bill, and sections 1201, 6701–02, 10223(b), 13102, 17101–02, 19101, and 19109 of the Senate amendment,and modifications committed to conference: Messrs. FASCELL, GEJDENSON, and BROOMFIELD.

As additional conferees from the Committees on Government Operations, for consideration of sections 121 (e) and (f), 122, 127 and 128 of the House bill, and sections 6207, 6216, 6218, and 6220–21 of the Senate amendment, and modifications committed to conference: Messrs. CONYERS, BUSTAMANTE, and CLINGER.

As additional conferees from the Committee on Government Operations, for consideration of sections 302 and 304–06 of the House bill, and sections 4102, 4105–06, 4112–13, 4116, and 4119 of the Senate amendment, and modifications committed to conference: Messrs. CONYERS, WISE, and MCCANDLESS.

As additional conferees from the Committee on Interior and Insular Affairs, for consideration of sections 133, 1314, 1403, 1607, 3002, 3004, 3009, 3101, 3102, and 3104 and titles VIII–XI and XXIV–XXIX of the House bill, and sections 5302–04, 5308, 6303, 6501, 6506, 13115, 13118, 13120–21, 14114, 19104, and 19110, 19112 and titles VIII, IX, X, XII, and XVIII of the Senate amendment, and modifications committed to conference: Messrs. MILLER of California, RAHALL, VENTO, KOSTMAYER, DE LUGO, GEJDENSON, DEFAZIO, YOUNG of Alaska, and MARLENEE, Mrs. VUCANOVICH, and Mr. RHODES; Provided, Mr. MURPHY is appointed in lieu of Mr. DEFAZIO for consideration of title XXV of the House bill and section 14114 of the Senate amendment only.

Mr. ABERCROMBIE is appointed in lieu of Mr. DEFAZIO for consideration of section 2481 of the House bill only.

As additional conferees from the Committee on Interior and Insular Affairs, for consideration of that portion of section 723(h) which adds a new section 212(h) to the Federal Power Act, 1312–13, 1403, 1607, 2012, 2113, 2307, and 3008 of the House bill, and sections 6501, 6506, 19104, 19110, and 20143(b) and titles VIII and XXI of the Senate amendment, and modifications committed to conference: Messrs. MILLER of California, RAHALL, and YOUNG of Alaska.

As additional conferees from the Committee on the Judiciary, for consideration of section 3010 of the House bill, and section 19102 of the Senate amendment, and modifications committed to conference: Messrs. BROOKS, EDWARDS of California, GLICKMAN, FEIGHAN, STAGGERS, BERMAN, WASHINGTON, FISH, HYDE, CAMPBELL of California, and SMITH of Texas.

As additional conferees from the Committee on the Judiciary, for consideration of sections 11107 of the Senate amendment, and modifications committed to conference: Messrs. BROOKS, EDWARDS of California, and FISH.

As additional conferees from the Committee on the Judiciary, for consideration of section 19106 of the Senate amendment, and modifications committed to conference: Messrs. BROOKS, FRANK of Massachusetts, and GEKAS.

As additional conferees from the Committee on Merchant Marine and Fisheries, for consideration of section 1607, and title XXIV of the House bill, and title XII of the Senate amendment, and modifications committed to conference: Messrs. JONES of North Carolina, STUDDS, HUGHES, HUTTO, HERTEL, TALLON, LANCASTER, DAVIS, FIELDS, BATEMAN, and INHOFE.

As additional conferees from the Committee on Merchant Marine and Fisheries, for consideration of sections 205, 1602, of the House bill, and sections 5204, 5302, 5304, and 11103 and title XXI of the Senate amendment, and modifications committed to conference: Messrs. JONES of North Carolina, STUDDS, and DAVIS.

As additional conferees from the Committee on Public Works and Transportation, for consideration of sections 121–28, 132, 411, 2453, 2461–64, 2705, 3102, and 3104 and title XVIII of the House bill, and sections 4120, 4401, 5303, 5308, 6101, 6201–24, 6304, and 10224 of the Senate amendment, and modifications committed to conference: Messrs. ROE, MINETA, NOWAK, APPLEGATE, DE LUGO, SAVAGE, BORSKI, HAMMERSCHMIDT, SHUSTER, PETRI, and INHOFE.

As additional conferees from the Committee on Public Works and Transportation, for consideration of sections 164(h), that portion of section 723 which adds a new section 212(i) to the Federal Power Act, 410, and 1316 of the House bill, and sections 12103, 12204, and 14113 of the Senate amendment, and modifications committed to conference: Messrs. ROE, MINETA, and HAMMERSCHMIDT.

As additional conferees from the Committee on Science, Space, and Technology, for consideration of sections 901–02, 1203, 1207, 1301, 1306–09, 1318–19, 2471, 2502–03, 2513, 3005, 3007, 3009 and titles VI and XX–XXIII of the House bill, and sections 4201–18, 4305, 4401, 5201–02, 5204–06, 6104, 6501 and titles II, VIII, X, XIII and XIV of the Senate amendment, and modifications committed to conference: Mr. BROWN, Mrs. LLOYD, and Messrs. SCHEUER, WOLPE, STALLINGS, ROEMER, SWETT, WALKER, RITTER, MORRISON, and FAWELL.

EXPEDITING CONSTRUCTION OF HIGHWAY PROJECTS WHICH PROVIDE ADDITIONAL QUALITY JOBS

Mr. MINETA. Mr. Speaker, I ask unanimous consent that the Committee on Public Works and Transportation be discharged from further consideration of the bill (H.R. 5830) to expedite construction of highway projects which provide additional quality jobs, and ask for its immediate consideration in the House.

The Clerk read the title of the bill.

The SPEAKER. Is there objection to the request of the gentleman from California?

Mr. HAMMERSCHMIDT. Mr. Speaker, reserving the right to object, I yield

to the gentleman from California [Mr. MINETA], a distinguished member of the subcommittee, for an explanation of his request.

Mr. MINETA. Mr. Speaker, I thank the gentleman from Arkansas for yielding.

Mr. Speaker, on July 28, 1992, the House passed S. 2641, and on August 6, the President signed it into law as Public Law 102-334.

That law provides for the restoration of $369 million in obligation authority to the States.

This bill, which we are bringing up with a sense of urgency because of the state of the economy, would direct the Secretary of Transportation, the States and metropolitan planning organizations to expedite, to the maximum extent practicable, use of the $369 million for projects which will be under construction by October 30, 1992.

The underlying purposes of this bill are twofold: First, to increase the number of quality jobs for construction and improvement of transportation facilities and secondary to expedite construction of projects authorized by the Intermodal Surface Transportation Efficiency Act of 1991.

It is important to note, Mr. Speaker, that the use of the $369 million shall be in accordance with the requirements established by ISTEA.

Last month's unemployment figures, as we know, were absolutely devastating: a national unemployment rate of 7.8 percent, California 9.5 percent, New Jersey 9.2 percent, New York 9.2 percent, Massachusetts 8.8 percent, Michigan 8.8 percent, Illinois 8.6 percent, and Texas 8.2 percent, just to name a few of the States. We know that each dollar invested in the infrastructure pays back multiple returns to the economy.

This bill provides us with the opportunity to expedite creation of a substantial number of quality construction jobs.

If H.R. 5830 is the most we can do at this time, it is the least we must do to help put Americans back to work.

I urge adoption of the bill and I thank the gentleman for yielding.

Mr. HAMMERSCHMIDT. Mr. Speaker, further reserving the right to object, I also rise in support of this legislation. Just 2 weeks ago, this Congress was successful in passing legislation which restored $369 million in obligation authority for the Federal-Aid Highway Program for fiscal year 1992. The Intermodal Surface Transportation Efficiency Act of 1991 included a provision which authorized funds for the Brooklyn courthouse. Because of the subsequent scoring of the courthouse as mandatory spending, the obligations for the highway program for fiscal year 1992 were reduced by almost $1 billion last December.

We were able to restore only part of that amount, so as not to cause a deficit on the pay-go scorecard. However, the $369 million in restored obligation authority will permit more needed transportation spending to occur across the country. Those additional funds were apportioned on Monday, August 10, to all the States.

The legislation before us concerns the use of that obligation authority. It directs the States to use their additional obligation authority, to the maximum extent practicable, for projects which will be under actual construction by October 30, 1992.

The intent of the provision is for the States to expend the funds on projects which will increase the number of real construction jobs. In the economic times in which we find ourselves, the creation of jobs is of immediate concern. This legislation will help to give an extra incentive for States to expend their funds on projects which are ready to go and therefore, ready to put people back to work.

The administration is in strong support of this legislation. All year, Secretary of Transportation Andrew Card has been urging States to obligate their ISTEA apportionments as quickly as possible.

It is a wonderful opportunity for us today to support his efforts, to see that valuable funds do not sit idle on the drawing board when they can be expended to create jobs, increase productivity, and improve our overall quality of life.

I urge my colleagues to support this bill to help jump start our country's economic engine forward again.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore (Mr. MONTGOMERY). Is there objection to the request of the gentleman from California?

There was no objection.

The Clerk read the bill, as follows:

H.R. 5830

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. FINDINGS.

Congress makes the following findings:

(1) Enactment of the Intermodal Surface Transportation Efficiency Act of 1991 and Public Law 102-334 provide the opportunity to create substantial numbers of quality jobs for construction and improvement of transportation facilities and the expeditious construction of projects authorized by the Intermodal Surface Transportation Efficiency Act of 1991 (including the amendments made by such Act) will enable those jobs to be available sooner.

(2) In particular, expeditious implementation of projects for resurfacing, restoration, rehabilitation, and preventative maintenance for pavements and bridges will also result in upgrading the quality of existing transportation facilities.

(3) Accelerating the approval process for resurfacing, restoration, rehabilitation, and preventative maintenance for pavements and bridges will not adversely impact the environment, as these types of projects are small in scope and improve existing transportation facilities.

SEC. 2. EXPEDITIOUS USE OF OBLIGATION AUTHORITY.

The Secretary of Transportation, States, and metropolitan planning organizations shall expedite, to the maximum extent practicable, use of obligation authority restored by Public Law 102-334 for projects which will be under actual construction by October 30, 1992, in order to increase the number of quality jobs for construction and improvement of transportation facilities. The use of such obligation authority shall be in accordance with the policies established by the Intermodal Surface Transportation Efficiency Act of 1991, including the amendments made by such Act.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

□ 1640

GENERAL LEAVE

Mr. MINETA. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on H.R. 5830, the bill just passed.

The SPEAKER pro tempore (Mr. MONTGOMERY). Is there objection to the request of the gentleman from California?

There was no objection.

APPOINTMENT OF CONFEREES ON S. 1766, U.S. CAPITOL POLICE JURISDICTION REFORM ACT

Ms. OAKAR. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the Senate bill (S. 1766) relating to the jurisdiction of the U.S. Capitol Police, with a Senate amendment to the House amendments thereto, disagree to the Senate amendment, and request a conference with the Senate thereon.

The SPEAKER pro tempore. Is there objection to the request of the gentlewoman from Ohio? The Chair hears none and, without objection, appoints the following conferees: Mr. ROSE, Ms. OAKAR, and Messrs. PANETTA, THOMAS of California, and ROBERTS.

There was no objection.

PRESCRIPTION DRUG AMENDMENTS OF 1992

Mr. WAXMAN. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the Senate bill (S. 3163) to amend the Federal Food, Drug, and Cosmetic Act to coordinate Federal and State regulation of wholesale drug distribution, and for other purposes, and ask for its immediate consideration in the House.

The Clerk read the title of the Senate bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

Mr. DANNEMEYER. Mr. Speaker, reserving the right to object, I yield to

my colleague, the gentleman from California [Mr. WAXMAN], to explain briefly what this bill would do.

Mr. WAXMAN. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, this legislation will extend the deadline for States to comply with the Prescription Drug Marketing Act, and in the interim establish a substitute registration system at the Food and Drug Administration. It will also clarify the legal requirements concerning the level of knowledge required for a criminal prosecution.

The Prescription Drug Marketing Act set a September 14, 1992, deadline for States to license prescription drug wholesaler. As of this month, most States are in full compliance with this requirement, but it is clear that some States have not adopted the registration system. An extension of the original deadline is needed to guarantee continued access to the full range of prescription drugs for all Americans. Otherwise, prescription drug wholesalers in States that have not yet met the legislative requirements of the PDMA will be subject to civil and criminal penalties.

Congressman DINGELL and I have worked with industry groups and the administration in drafting this amendment. The bill includes a sunset provision, so that the PDMA deadline is extended by only 2 years. This gives States the time they need to legislate and implement their registration programs. In the interim, companies in States that have not yet established registration programs will be required to register at the Food and Drug Administration.

Following this statement, I have included a section-by-section analysis of the bill.

S. 3163 was adopted unanimously by other body. I urge my colleagues to support this legislation.

SECTION-BY-SECTION ANALYSIS

SEC. 1. SHORT TITLE

The short title of the bill is the Prescription Drug Amendments of 1992.

SEC. 2. DISTRIBUTOR REGISTRATION

Section 2 establishes a temporary (2 year) registration program with the Food and Drug Administration ("FDA") for wholesale distributors of prescription drugs in interstate commerce in states that do not license such persons in accordance with existing requirements of the Federal Food, Drug and Cosmetic Act ("FDC Act").

Section 503(e)(2)(A) of the current law is intended to ensure that any person engaging in the wholesale distribution of prescription drugs in interstate commerce shall be licensed in the state in which it does business and that state licensing requirements meet certain minimum requirements as contained in regulations promulgated by the Secretary of the Department of Health and Human Services ("HHS"). The effective date for subparagraph 503(e)(2)(A) is September 14, 1992.

While many states have taken steps to meet the licensing requirements and are expected to meet the deadline, current data indicate that some states may not enact prescription drug wholesaler licensing requirements by September 14, 1992. Therefore, the amendments to section 503(e) provide for a temporary registration program within HHS for persons engaging in the wholesale distribution of prescription drugs in states that have not yet adopted licensing programs. This temporary registration provision is not intended to create a federalized registration program and will expire without extension on September 14, 1994. Ultimate responsibility for licensing wholesale distributors shall remain with the states.

The bill's sponsors understand the FDA has the discretion to implement this provision in a manner that is consistent with its resources.

SEC. 3. PENALTY CLARIFICATION

Section 3 adds a "knowingly" standard to the felony provision of the Prescription Drug Marketing Act ("PDMA"). In its present form, the Act provides severe punishment for criminal violations without expressly requiring any scienter on the part of the offender.

Addition of the word "knowingly" in Section 303(b)(1) of the FDC Act is intended to clarify that the offenses described in that section require an element of knowledge. The amendment conforms with prosecutorial experience and practice.

Section 303(b)(1) is intended to clarify that the offenses described in that section require an element of knowledge. The provision conforms with prosecutorial experience and practice.

The offenses described in section 303(b)(1) are treated differently from other offenses in the FDC Act. In general, a violation of the FDC Act is punishable as a misdemeanor without proof of consciousness of wrongdoing (Section 303(a)(1); *United States v. Park*, 421 U.S. 658 (1975)), or as a three-year felony when the violation is second offense, or when it is committed with the intent to defraud or mislead. Section 303(b)(2). The precription drug marketing offenses described in section 303(b)(1) of the FDC Act are excepted from this scheme, carrying only a felony penalty.

As originally enacted, section 303(b)(1) stated no mental element for the offenses it described. This silence potentially could create confusion about what kind of conduct Congress was addressing. Indicia of Congress' intent are available in other parts of the statute and the legislative history. For example, Congress provided that a pharmaceutical company would not be criminally responsible for every drug diversion perpetrated by a company employee 303(c)(1); House Report 1000–76 at 12. This is strong evidence that 303(b)(1) was not intended to create a strict liability offense under the FDC Act. In the absence of specific language describing the intended mental element of the offense, however, the statute might be subject to conflicting or erroneous interpretation by the courts.

The present amendment makes clear that the offenses described in section 303(b)(1) are committed when an individual "knowingly" commits acts that are proscribed by the PDMA (for example selling a prescription drug sample, importing a prescription drug, or selling a drug that had been purchased by a health care entity). This knowledge extends only to the prohibited act; it would not be necessary in a prosecution for the government to prove that the defendant knew that the act was a violation of any law. Thus, for example, an offense under amended section 303(b)(1)(B) would be committed when an individual sold a prescription drug that had been purchased by a health care entity, if he or she were aware of these circumstances, whether or not he or she also knew that the sale of the drug was a violation of section 503(c)(3).

Section 3 also substitutes the words "institution of criminal proceeding" for "arrest" or "arrest of" in current law, because there are rarely arrests in connection with criminal proceedings under the PDMA.

Finally, section 3 revises section 303(c) and (d) to conform with section 303 (a) and (b) as amended by the PDMA, and corrects subsection (d).

SEC. 4 DRUG SAMPLES

Section 4 clarifies the prohibition against the distribution of drug samples by anyone other than the manufacturer or the manufacturer's authorized distributor. It also makes clear that providing a drug sample to a patient by (or in very limited circumstances at the discretion of) a licensed practitioner is not prohibited.

Section 4 also makes clear that any wholesale distribution of a prescription drug (any sale to anyone other than a consumer or patient, including any sale to an authorized distributor of record to a retail pharmacy) by anyone other than the manufacturer or authorized distributor of record must be preceded by a statement identifying each prior sale of the drug. The identifying statement must in all cases include the dates of each transaction involving the drug and the names and addresses of all parties to the transaction, and must contain such other information as the Secretary of HHS may require.

SEC. 5 TECHNICAL AMENDMENT

Section 5 makes a technical amendment to section 801(d)(1) of current law.

Mr. DANNEMEYER. Mr. Speaker, further reserving the right to object, if we do not adopt this bill very soon, there are certain sellers of prescription drugs that may be in violation inadvertently of State laws, and this is the reason that I think the legislation should be adopted.

Mr. DINGELL. Mr. Speaker, I rise in support of S. 3163, a bill that provides for the temporary licensing with the Food and Drug Administration of prescription drug wholesalers in States that have yet to establish a State licensing system as required by existing law.

The purpose of this technical amendment is to prevent needless disruption in the distribution of drugs by wholesalers in the United States.

The bill amends the Prescription Drug Marketing Act, which was signed into law in April 1988. This law requires States to license wholesale distributors of prescription drugs in conformance with minimum standards published by the FDA. The statute gave the States 2 years to accomplish this task. While many States have complied, a number of other States have not. On September 15, 1992, any wholesaler that sells prescription drugs in a State that has not complied with the licensing requirement will be committing a felony.

The National Wholesale Druggists Association has informed the Energy and Commerce Committee that, as of the end of July 22 States and the Commonwealth of Puerto Rico were not in compliance. While several of these States may come into compliance by September 15, it is clear that some will not. The NWDA has told the committee that their mem-

bers in those States will be forced to cease sales in interstate commerce for fear of violating the law.

To prevent this disruptive and costly outcome, this legislation allows wholesalers in noncomplying States to register instead with the FDA. This temporary alternative registration system, which only applies to States without registration systems that meet the FDA standard, will sunset after 2 years.

The provisions of this bill have been worked out with all parties, including affected elements in the pharmaceutical industry, the administration and, of course, my Republican colleagues. I would especially like to thank my good friends in the Senate, Chairman KENNEDY and Senator HATCH, and their staffs, for their leadership and their hard work in passing this legislation. Thanks are also due for Chairman WAXMAN and the staff of his subcommittee for their helpful role in facilitating the passage of this bill.

Mr. Speaker, I urge my colleagues to vote in favor of this important piece of legislation.

Mr. DANNEMEYER. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

The Clerk read the Senate bill, as follows:

S. 3163

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE AND REFERENCE.

(a) SHORT TITLE.—This Act may be cited as the "Prescription Drug Amendments of 1992".

(b) REFERENCE.—Whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Federal Food, Drug, and Cosmetic Act.

SEC. 2. DISTRIBUTION REGISTRATION.

(a) REQUIREMENT.—Section 503(e)(2)(A) (21 U.S.C. 353(e)(2)(A)) is amended by inserting before the period the following: "or has registered with the Secretary in accordance with paragraph (3)".

(b) REGISTRATION.—Section 503(e) (21 U.S.C. 353(e)) is amended by redesignating paragraph (3) as paragraph (4) and by inserting after paragraph (2) the following:

"(3) Any person who engages in the wholesale distribution in interstate commerce of drugs that are subject to subsection (b) in a State that does not have a program that meets the guidelines established under paragraph (2)(B) shall register with the Secretary the following:

"(A) The person's name and place of business.

"(B) The name of each establishment the person owns or operates that is engaged in the wholesale distribution of drugs in a State that does not have a program to license persons engaged in such distribution.".

(c) TECHNICAL.—Section 503(f)(1)(B) (21 U.S.C. 353(f)(1)(B)) is amended by striking out "and order" and inserting in lieu thereof "an order".

(d) SUNSET.—Effective September 14, 1994, the amendments made by subsections (a) and (b) shall no longer be in effect.

SEC. 3. PENALTY CLARIFICATION.

(a) SCIENTER.—Paragraph (1) of section 303(b) (21 U.S.C. 333(b)) is amended to read as follows:

"(b)(1) Notwithstanding subsection (a), any person who violates section 301(t) by—

"(A) knowingly importing a drug in violation of section 801(d)(1),

"(B) knowingly selling, purchasing, or trading a drug or drug sample or knowingly offering to sell, purchase, or trade a drug or drug sample, in violation of section 503(c)(1),

"(C) knowingly selling, purchasing, or trading a coupon, knowingly offering to sell, purchase, or trade such a coupon, or knowingly counterfeiting such a coupon, in violation of section 503(c)(2), or

"(D) knowingly distributing drugs in violation of section 503(e)(2)(A),

shall be imprisoned for not more than 10 years or fined not more than $250,000, or both.".

(b) CLARIFICATION.—Section 303 (21 U.S.C. 333) is amended—

(1) in subparagraphs (A) and (B)(i) of subsection (b)(4), by striking out "the arrest and conviction of" each time it occurs and inserting in lieu thereof "the institution of a criminal proceeding against, and conviction of,";

(2) in subparagraph (B)(i) of subsection (b)(4), by striking out "the arrest of" and inserting in lieu thereof "the institution of a criminal proceeding against";

(3) in subsection (b)(5), by striking out "the arrest and conviction of" and inserting in lieu thereof "the institution of a criminal proceeding against, and conviction of,";

(4) in subsections (c) and (d), by striking out "subsection (a) of this section" and inserting in lieu thereof "subsection (a)(1) of this section"; and

(5) in subsection (d), by striking out ", and no person" and all that follows through "mislead".

SEC. 4. DRUG SAMPLES.

Section 503 (21 U.S.C. 353) is amended—

(1) in subsection (d), by amending paragraph (1) to read as follows:

"(d)(1) Except as provided in paragraphs (2) and (3), no person may distribute any drug sample. For purposes of this subsection, the term 'distribute' does not include the providing of a drug sample to a patient by a—

"(A) practitioner licensed to prescribe such drug,

"(B) health care professional acting at the direction and under the supervision of such a practitioner, or

"(C) pharmacy of a hospital or of another health care entity that is acting at the direction of such a practitioner and that received such sample pursuant to paragraph (2) or (3).".

(2) in paragraphs (2) and (3) of subsection (d), by striking out "distributor" each place it occurs and inserting in lieu thereof "authorized distributor of record" and in subsection (d)(3) by striking out "distributors" each place it occurs and inserting in lieu thereof "authorized distributors of records";

(3) in subsection (e), by amending paragraph (1) to read as follows:

"(e)(1)(A) Each person who is engaged in the wholesale distribution of a drug subject to subsection (b) and who is not the manufacturer or an authorized distributor of record of such drug shall, before each wholesale distribution of such drug (including each distribution to an authorized distributor of record or to a retail pharmacy), provide to the person who receives the drug a statement (in such form and containing such information as the Secretary may require) identifying each prior sale, purchase, or trade of such drug (including the date of the transaction and the names and addresses of all parties to the transaction).

"(B) Each manufacturer of a drug subject to subsection (b) shall maintain at its corporate offices a current list of the authorized distributors of record of such drug."; and

(4) in subsection (e)(4) (as so redesignated by section 2(c)), by inserting before the dash the following: "and subsection (d)".

SEC. 5. TECHNICAL AMENDMENT.

Section 801(d)(1) (21 U.S.C. 381(d)(1)) is amended by striking out "person who manufactured" and inserting in lieu thereof "manufacturer of".

The Senate bill was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

SENSE OF CONGRESS REGARDING VISIONARY ART AS NATIONAL TREASURE AND REGARDING AMERICAN VISIONARY ART MUSEUM

Mr. WILLIAMS. Mr. Speaker, I ask unanimous consent that the Committee on Education and Labor be discharged from further consideration of the Senate concurrent resolution (S. Con. Res. 81) expressing the sense of the Congress regarding visionary art as a national treasure and regarding the American Visionary Art Museum as a national repository and educational center for visionary art, and ask for its immediate consideration.

The Clerk read the title of the Senate concurrent resolution.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Montana?

Mrs. ROUKEMA. Mr. Speaker, reserving the right to object, I do so for the purpose of asking the chairman of the committee what the description is of this unanimous-consent request. I believe the title is "Museum for Visionary Art."

Mr. WILLIAMS. Mr. Speaker, will the gentlewoman yield?

Mrs. ROUKEMA. Further reserving the right to object, I am happy to yield to the gentleman from Montana.

Mr. WILLIAMS. Mr. Speaker, Senate Concurrent Resolution 81 gives national recognition to the American Visionary Art Museum.

Visionary art is art produced in response to extraordinary circumstances. It is not art produced by practicing, professional artists, but rather art produced by the mentally ill, the disabled, and the elderly. It is art that assists these individuals, through the use of the creative process, to overcome the problems that confront them.

The American Visionary Art Museum, in the process of being built in Baltimore with State and private money is the only visionary art museum in the United States. The legislation before us will recognize visionary art as an important national treasure and proclaim the American Visionary Art Museum a national repository and educational center for visionary art. It asks for no authorization of Federal dollars, only Federal recognition.

I urge adoption of the resolution.

Mrs. ROUKEMA. Further reserving the right to object, I thank the subcommittee chairman.

It is a very meritorious project, and there are no objections on the minority side. It also has the full support of Representatives from that area on both sides of the aisle, and I am happy to support the proposal.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Montana?

There was no objection.

The Clerk read the Senate concurrent resolution, as follows:

S. CON. RES. 81

Whereas visionary art is the art produced by self-taught individuals who are driven by their own internal impulses to create;

Whereas the visionary artist's product is a striking personal statement possessing a powerful and often spiritual quality;

Whereas prominent among the creators of visionary art are the mentally ill, the disabled, and the elderly;

Whereas there are many museums of visionary art located throughout Europe such as the Art Brut Museum located in Lausanne, Switzerland;

Whereas the American Visionary Art Museum is the first museum in North America to be wholly dedicated to assembling a comprehensive national collection of American visionary art;

Whereas the collection at the American Visionary Art Museum includes film, literature, and research on all fields related to visionary art;

Whereas the American Visionary Art Museum's mission is to increase public awareness of uncommon art produced by individuals in response to extraordinary circumstances;

Whereas the American Visionary Art Museum seeks to remove the stigma associated with disability by illuminating the power of humans to triumph over adversity through creativity;

Whereas the national policy of deinstitutionalization has resulted in the closure of many facilities and the destruction of visionary artwork;

Whereas the American Visionary Art Museum has the support of certain offices of the National Institute of Mental Health and other government agencies in its goal to function as a national repository for works produced by formerly institutionalized individuals; and

Whereas it is the best interest of the national welfare and all American citizens to preserve visionary art and to celebrate this unique art form: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That it is the sense of the Congress that—

(1) visionary art should be designated as a rare and valuable national treasure to which we devote our attention, support, and resources to make certain that it is collected, preserved, and understood; and

(2) the American Visionary Art Museum is the proper national repository and educational center for visionary art.

The SPEAKER pro tempore. The question is on the Senate concurrent resolution.

The Senate concurrent resolution was concurred in.

A motion to reconsider was laid on the table.

REMOVAL OF NAME OF MEMBER AS COSPONSOR OF H.R. 1443

Ms. PELOSI. Mr. Speaker, I ask unanimous consent that my name be removed from the list of cosponsors of H.R. 1443.

The Speaker pro tempore. Is there objection to the request of the gentlewoman from California?

There was no objection.

RAIL SAFETY ENFORCEMENT AND REVIEW ACT

Mr. SWIFT. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 2607) to authorize activities under the Federal Railroad Safety Act of 1970 for fiscal years 1992 and 1993, and for other purposes, with a Senate amendment to the House amendments to the Senate amendment, and concur in the Senate amendment to the House amendments to the Senate amendment.

The Clerk read the title of the bill.

The Clerk read the Senate amendment to the House amendments to the Senate amendment, as follows:

Senate amendment to House amendments to Senate amendment:

Page 27, after line 14, of the House amendment to the Senate amendment to the text of the bill, insert:

SEC. 19, AIRPORT LEASES.

(a) FINDINGS.—Congress finds that—

(1) there are major airports served by an air carrier that has leased a substantial majority of the airport's gates;

(2) the commerce in the region served by such a major airport can be disrupted if the air carrier that leases most of its gates enters bankruptcy and either discontinues or materially reduces service; and

(3) it is important that such airports be empowered to continue service in the event of such a disruption.

(b) BANKRUPTCY RULES REGARDING UNEXPIRED LEASES.—Section 365(d) of title 11, United States Code, is amended by adding at the end the following new paragraphs:

"(5) Notwithstanding paragraphs (1) and (4) of this subsection, in a case under any chapter of this title, if the trustee does not assume or reject an unexpired lease of nonresidential real property under which the debtor is an affected air carrier that is the lessee of an aircraft terminal or aircraft gate before the occurrence of a termination event, then (unless the court orders the trustee to assume such unexpired leases within 5 days after the termination event), at the option of the airport operator, such lease is deemed rejected 5 days after the occurrence of a termination event and the trustee shall immediately surrender possession of the premises to the airport operator; except that the lease shall not be deemed to be rejected unless the airport operator first waives the right to damages related to the rejection. In the event that the lease is deemed to be rejected under this paragraph, the airport operator shall provide the affected air carrier adequate opportunity after the surrender of the premises to remove the fixtures and equipment installed by the affected air carrier.

"(6) For the purpose of paragraph (5) of this subsection and paragraph (f)(1) of this section, the occurrence of a termination event means, with respect to a debtor which is an affected air carrier that is the lessee of an aircraft terminal or aircraft gate—

"(A) the entry under section 301 or 302 of this title of an order for relief under chapter 7 of this title;

"(B) the conversion of a case under any chapter of this title to a case under chapter 7 of this title; or

"(C) the granting of relief from the stay provided under section 362(a) of this title with respect to aircraft, aircraft engines, propellers, appliances, or spare parts, as defined in section 101 of the Federal Aviation Act of 1958 (49 App. U.S.C. 1301), except for property of the debtor found by the court not to be necessary to an effective reorganization.

"(7) Any order entered by the court pursuant to paragraph (4) extending the period within which the trustee of an affected air carrier must assume or reject an unexpired lease of nonresidential real property shall be without prejudice to—

"(A) the right of the trustee to seek further extensions within such additional time period granted by the court pursuant to paragraph (4); and

"(B) the right of any lessor or any other party in interest to request, at any time, a shortening or termination of the period within which the trustee must assume or reject an unexpired lease of nonresidential real property.

"(8) The burden of proof for establishing cause for an extension by an affected air carrier under paragraph (4) or the maintenance of a previously granted extension under paragraph (7)(A) and (B) shall at all times remain with the trustee.

"(9) For purposes of determining cause under paragraph (7) with respect to an unexpired lease of nonresidential real property between the debtor that is an affected air carrier and an airport operator under which such debtor is the lessee of an airport terminal or an airport gate, the court shall consider, among other relevant factors, whether substantial harm will result to the airport operator or airline passengers as a result of the extension or the maintenance of a previously granted extension. In making the determination of substantial harm, the court shall consider, among other relevant factors, the level of actual use of the terminals or gates which are the subject of the lease, the public interest in actual use of such terminals or gates, the existence of competing demands for the use of such terminals or gates, the effect of the court's extension or termination of the period of time to assume or reject the lease on such debtor's ability to successfully reorganize under chapter 11 of this title, and whether the trustee of the affected air carrier is capable of continuing to comply with its obligations under section 365(d)(3) of this title.".

(c) PARTIAL ASSIGNMENTS OR ASSUMPTIONS OF LEASES.—Section 365(c) of title 11, United States Code, is amended—

(1) by striking "or" at the end of paragraph (2);

(2) by striking the period at the end of paragraph (3) and inserting in lieu thereof "; or"; and

(3) by adding at the end the following new paragraph:

"(4) such lease is of nonresidential real property under which the debtor is the lessee of an aircraft terminal or aircraft gate at an airport at which the debtor is the lessee

under one or more additional nonresidential leases of an aircraft terminal or aircraft gate and the trustee, in connection with such assumption or assignment, does not assume all such leases or does not assume and assign all of such leases to the same person, except that the trustee may assume or assign less than all of such leases with the airport operator's written consent.".

(d) PROHIBITION OF LEASE ASSIGNMENTS AFTER TERMINATION EVENT.—Section 365(f)(1) of title 11, United States Code, is amended by striking the period at the end and inserting in lieu thereof the following: "; except that the trustee may not assign an unexpired lease of nonresidential real property under which the debtor is an affected air carrier that is the lessee of an aircraft terminal or aircraft gate if there has occurred a termination event.".

(e) AFFECTED AIR CARRIER DEFINED.—Section 365 of title 11, United States Code, is amended by adding at the end the following new subsection:

"(p) In this section, 'affected air carrier' means an air carrier, as defined in section 101(3) of the Federal Aviation Act of 1958, that holds 65 percent or more in number of the aircraft gates at an airport—

"(1) which is a Large Air Traffic Hub as defined by the Federal Aviation Administration in Report FAA-AP 92-1, February 1992; and

"(2) all of whose remaining aircraft gates are leased or under contract on the date of enactment of this subsection.".

(f) APPLICABILITY.—The amendments made by this section shall be in effect for the 12-month period that begins on the date of enactment of this Act and shall apply in all proceedings involving an affected air carrier (as defined in section 365(p) of title 11, United States Code, as amended by this section) that are pending during such 12-month period. Not later than 9 months after the date of enactment, the Administrator of the Federal Aviation Administration shall report to the Committee on Commerce, Science, and Transportation and Committee on the Judiciary of the Senate and the Committee on the Judiciary and Committee on Public Works and Transportation of the House of Representatives on whether this section shall apply to proceedings that are commenced after such 12-month period.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Washington?

Mr. LENT. Mr. Speaker, reserving the right to object, I will not object, but I yield to the gentleman from Washington [Mr. SWIFT] for a brief explanation.

Mr. SWIFT. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, the Senate amendment clarifies bankruptcy procedures with respect to certain airlines and the distribution of their gates.

Mr. LENT. Mr. Speaker, further reserving the right to object, I thank the gentleman for that explanation.

Mr. GEPHARDT. Mr. Speaker, I rise in support of the rail safety legislation approved by the Senate earlier today. This legislation contains a provision allowing continued operations at Lambert Airport, a major hub, in the event of a suspension of operations at St. Louis by our primary air carrier.

Our first priority is for TWA to emerge from bankruptcy. The 26,000 dedicated employees are among the best in the world. In the midst of an enormous industry shakeout, we are all hoping—and working—to find a way to save this proud airline and the thousands of careers that are on the line.

In the event that we do not succeed, operations at St. Louis' Lambert Airport could be substantially reduced or suspended. The economies of several cities have suffered when airport gates have been held hostage at bankruptcy courts, and we cannot afford to allow that in St. Louis or other major hubs dominated by one carrier.

If operations halted and the gates were locked up in bankruptcy courts, the St. Louis traveling public, business people, tourists, and others, would be left with a 70-percent reduction in air service. Airline employees would be left with no possibility of new local employment.

This legislation does not affect use of the gates by TWA as long as it continues its operations. In its leases, TWA originally had agreed to return the gates to Lambert in the event of bankruptcy; this amendment simply allows the airport to regain the gates if operations cease. It is a safety net for our community.

This amendment is an important first step in ensuring that communities across the country have some control over their own destiny when major carriers suspend operations. I thank Chairmen BROOKS, ROE, and DINGELL for their support of this legislation.

Mr. LENT. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Washington?

There was no objection.

A motion to reconsider was laid on the table.

FOOD STAMP ACT OF 1977 AMENDMENT

Mr. DE LA GARZA. Mr. Speaker, I ask unanimous consent that the Committee on Agriculture be discharged from further consideration of the Senate bill (S. 3001) to amend the Food Stamp Act of 1977 to prevent a reduction in the adjusted cost of the thrifty food plan during fiscal year 1993, and for other purposes, and ask for its immediate consideration.

The Clerk read the title of the Senate bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

Mr. EMERSON. Mr. Speaker, reserving the right to object, and I will not object, I yield to the gentleman from Texas [Mr. DE LA GARZA] as the chairman of the Committee on Agriculture.

Mr. DE LA GARZA. Mr. Speaker, I thank the distinguished gentleman for yielding to me.

Mr. Speaker, S. 3001 prevents a reduction on October 1 of this year in the adjusted cost of the thrifty food plan for food stamp recipients.

Current law provides that each October 1 adjustments must be made in allotments to reflect 103 percent of the cost, in the preceding June, of the most recent thrifty food plan as determined by the Secretary of Agriculture. This year is unusual in that for the first time food costs in the preceding June—June 1992—are such that allotments in October of this year would be below current levels.

The Director of the Office of Management and Budget has advised the chairman of the House Budget Committee, Congressman LEON PANETTA, that currently the pay-as-you-go balance is positive in fiscal year 1993 and that passage of S. 3001 at this time would not trigger a sequester under the Budget Enforcement Act. I am attaching a copy of Director Darman's letter to my statement.

Accordingly, I urge prompt passage of this necessary legislation.

OFFICE OF MANAGEMENT AND BUDGET,
Washington, DC, August 12, 1992.

Hon. LEON PANETTA,
Chairman, Budget Committee, House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN: I understand that the House may act this week on S. 3001, Food Stamp Act Amendments, as passed by the Senate. This bill would prevent a decrease in food Stamp benefits for fiscal year 1993, as mandated by the current statutory formula.

OMB's preliminary review of S. 3001 indicates that the bill has a net pay-as-you-go cost in fiscal year 1993. Preliminarily, CBO agrees with this assessment. Based on legislation enacted to date, the current pay-as-you-go balance is positive in fiscal year 1993. This positive current balance is sufficient to offset the amount that OMB estimates to be the pay-as-you-go costs of S. 3001. If the House were to adopt the Senate-passed version of S. 3001 promptly, while the pay-as-you-go balance is positive, enactment of this legislation would not trigger a sequester under the Budget Enforcement Act.

With best regards,

RICHARD DARMAN,
Director.

Identical letter sent to Hon. Bill Gradison.

Mr. EMERSON. Mr. Speaker, further reserving the right to object, I rise in support of S. 3001.

This is a bill to prevent a reduction in the adjusted cost of the thrifty food plan, and thus a reduction in benefits to food stamp recipients for fiscal year 1993.

The annual cost of living increases in the food stamp program are scheduled to take place every October 1 and are based on annual changes in the cost of food as of the previous June. This year the changes in the cost of food have gone down and therefore the thrifty food plan [TFP], the basis of the food stamp benefit, will go down. USDA is in the process of calculating the thrifty food plan since they have to notify States soon so that changes can be made by October 1.

According to the Congressional Budget Office, the cost of using the fiscal year 1992 thrifty food plan is $330 million. If this is measured against the February baseline there is a $265 million savings. However, CBO has decided

not to use the February 1992 baseline for the fiscal year 1993 thrifty food plan.

The February 1992 baseline assumed a 1-percent cost of living allowance [COLA] at a cost of $265 million relative to no COLA. Actually there was a 1.3-percent decline in the thrifty food plan COLA for fiscal year 1993.

The Office of Management and Budget has forwarded a letter to the chairman of the House Budget Committee that indicates, as noted below, that passage of S. 3001 poses no problem for the pay-as-you-go balance and that its passage would not trigger a sequester.

OFFICE OF MANAGEMENT AND BUDGET,
Washington, DC, August 12, 1992.

Hon. LEON PANETTA,
Chairman, Budget Committee, House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN: I understand that the House may act this week on S. 3001, Food Stamp Act Amendments, as passed by the Senate. This bill would prevent a decrease in Food Stamp benefits for fiscal year 1993, as mandated by the current statutory formula.

OMB's preliminary review of S. 3001 indicates that the bill has a net pay-as-you-go cost in fiscal year 1993. Preliminarily, CBO agrees with this assessment. Based on legislation enacted to date, the current pay-as-you-go balance is positive in fiscal year 1993. This positive current balance is sufficient to offset the amount that OMB estimates to be the pay-as-you-go costs of S. 3001. If the House were to adopt the Senate-passed version of S. 3001 promptly, while the pay-as-you-go balance is positive, enactment of this legislation would not trigger a sequester under the Budget Enforcement Act.

With best regards,

RICHARD DARMAN,
Director.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

The Clerk read the Senate bill, as follows:

S. 3001

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. ADJUSTED COST OF THRIFTY FOOD PLAN.

Section 3(o)(11) of the Food Stamp Act of 1977 (7 U.S.C. 2012(o)(11)) is amended by inserting before the period at the end the following: ", except that on October 1, 1992, the Secretary may not reduce the cost of such diet".

The Senate bill was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. DE LA GARZA. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on S. 3001, the Senate bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

LEGISLATIVE PROGRAM

(Mr. DREIER of California asked and was given permission to address the House for 1 minute.)

Mr. DREIER of California. Mr. Speaker, I ask for this time so that I might inquire of the extraordinarily distinguished majority leader about the schedule to be considered weeks and weeks and weeks in advance.

Mr. GEPHARDT. Mr. Speaker, will the gentleman yield?

Mr. DREIER of California. I am happy to yield to my friend, the gentleman from Missouri.

Mr. GEPHARDT. Mr. Speaker, I thank the gentleman for yielding.

Obviously there are no more votes today. There will not be votes the rest of the week.

We will be going into an adjournment for the Republican National Convention and for district work period to come thereafter.

On Monday, September 7, the House will not be in session. It is part of the Labor Day district work period. Tuesday, September 8, again, the House will not be in session as part of the work period.

On Wednesday, September 9, and Thursday, September 10, the House will meet at noon on Wednesday and at 10 a.m. on Thursday.

□ 1650

We will have motions to go to conference expected on appropriation bills.

I would expect on Wednesday the first vote could be expected about 1 o'clock or 1:30 in the afternoon. There will be votes on motions to instruct conferees.

We will then be taking up H.R. 4394, the merchant mariners' documents, subject to a rule; H.R. 4484, Maritime Administration reauthorization for fiscal year 1993, subject to a rule; H.R. 4706, Child Safety Protection and Consumer Product Safety Commission Improvement Act, subject to a rule; H.R. 5754, Water Resources Development Act of 1992, subject to a rule, and H.R. 5231, National Competitiveness Act of 1992, subject to a rule; also, H.R. 2, the Family Medical Leave Conference Report is a possible matter for consideration during this two-day period.

On Friday, September 11, the House will not be in session.

Mr. DREIER of California. So Mr. Speaker, I would ask the distinguished majority leader then, Members should expect votes on Wednesday and Thursday, the 9th and 10th of September.

Mr. GEPHARDT. Mr. Speaker, if the gentleman will yield, that is correct, and possible votes into the evening on those two nights; no votes, obviously, on Monday, Tuesday, or Friday of that week.

Mr. DREIER of California. So it is safe for us to say that having cast the last vote for today, that we can all say to each other, "See you in September"?

Mr. GEPHARDT. Correct; to be precise, about 1 or 1:30 on Wednesday, September 9.

Mr. DREIER of California. Mr. Speaker, I thank the gentleman very much, and I yield back the balance of my time.

AUTHORIZING THE SPEAKER AND THE MINORITY LEADER TO ACCEPT RESIGNATIONS AND MAKE APPOINTMENTS, NOTWITHSTANDING ADJOURNMENT

Mr. GEPHARDT. Mr. Speaker, I ask unanimous consent that, notwithstanding any adjournment of the House until Wednesday, September 9, 1992, the Speaker and the minority leader be authorized to accept resignations and to make appointments authorized by law or by the House.

The SPEAKER pro tempore (Mr. MONTGOMERY). Is there objection to the request of the gentleman from Missouri?

There was no objection.

DISPENSING WITH CALENDAR WEDNESDAY BUSINESS ON WEDNESDAY, SEPTEMBER 9, 1992

Mr. GEPHARDT. Mr. Speaker, I ask unanimous consent that the business in order under the Calendar Wednesday rule be dispensed with on Wednesday, September 9, 1992.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Missouri?

There was no objection.

CONGRATULATIONS TO HOUSE PAGES

(Mr. EMERSON asked and was given permission to address the House for 1 minute.)

Mr. EMERSON. Mr. Speaker, I take this time to note that with the commencement of the August summer recess of the Congress, we will no longer see the current class of pages who are serving us here. When we return in September, there will be a new group for the school year.

I just wanted to commend those who have served during this early summer period for the work that they have done, for the fine service they have rendered to the House of Representatives, to wish on behalf of myself and I am sure all my colleagues our very best wishes to each and every one of them in their future endeavors.

Serving as a page in the House of Representatives is a wonderful opportunity. I know because I was one at one time. I found it to be the best single learning experience of my life.

I hope that the pages who are with us now have gleaned a lot from their service here in the seat of democracy and that it will serve them well all their years.

Mr. DORNAN of California. Mr. Speaker, will the gentleman yield?

Mr. EMERSON. I am glad to yield to the gentleman from California.

Mr. DORNAN of California. Mr. Speaker, if you will look over my shoulder on both sides at the bright flashing eyes, I think you would agree with me that remarkable as it might sound, each class of pages, if this is humanly possible, becomes more brilliant and dedicated than the prior class. I have seen some outstanding classes of pages since I came here with MARY ROSE OAKAR in the great bicentennial class of 1976, but this is a particularly outstanding group, and I expect to see at least 50 percent of these young men and women back here, like this great ex-page, the gentleman from Missouri [Mr. EMERSON] back here serving with us, and I doubt many of us will be around then.

Mr. EMERSON Mr. Speaker, I ask unanimous consent to include at this point in the RECORD the roster of the pages who are currently serving in the House.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Missouri?

There was no objection.

PAGES—SUMMER, 1992

Allen, Marja Dominique; Bielawski, Nicole Marie; Bird, Rebecca Cristina; Borba, Andria Karla; Brewer, Jeremy Walker; Bushell, Brian Andrew; Callahan, Kathleen Marie; Coen, Thomas Francis; Czerwinksi, David Edward; Daugherty, Benjamin Brooks.

Donohue, Audra C.M.; Driscoll, Michael Edmund; Elliott, David Horrace, II; Feigenbaum, Daniel Marc; [1]Flack, Eric John; Fleischer, Michael Lowell; Goodale, Nicole Lynn; Grampa, Giovanna (Joanne); Hardeman, Thomas L., III.

Harrell Cheri Renee; Hennessey, Michael Evan; Hertel, Heather Katherine; Hooge, Joshua Steven; Jaszczak, Renee Theresa; Jones, Carrie Elizabeth; Kahn, Joseph Marion; Kamin, Maria Linda; Keeling, Alexandra Halik; Kelleher, Brendan Patrick.

King, Julie Lynn; Kinkor, Kevin; Knautz, Elizabeth Anne; Lanaux, Christopher Thomas; Leahy, John Francis, IV; Lieber, Stephanie Joy; Lipper, Julie; [1]Malon, Brett Christian; Mayo, Christine Robb; Mayo, Julie Lynne.

Midgley, Juliet Christine; Moretz, Michaele Grace; Nieh, Cornell Ho; Ochshorn, Sivan Annabelle; O'Neill, Susannah Julie; [1]Paul, Michelle Wetter; Powell, Doshey Lynwood; Rivas, Monica; Rubin, Samuel Adam.

Russo, Alexander Patrick; Sartini, Chad Christopher; Scott, Shelley Renee; Sexton, Todd Joseph; Smooke, Ellen Joy; Stabenow, Todd Dennis; Strauss, Catherine Louise; Sundy, Robert.

Thrun, Ryan William; Tommasi, Paul Joseph; Topodas, Dean Themistocles; Walling, Heather Lynne; Willis, Kara Michelle; Wilson, Tameka Renne; Zifkin, Hillary Rose; Zimmerman, Leah Rea.

[1]Served in 1st term also

REPUBLICAN PAGES

Marc G. Barenbert, Christian Early Brown, John Thomas Curlett, Nicole Andrea Doucette.

Elizabeth Buchanan Edison, David Kirkham Evans, Atticus James Gill, Chris George Goemans, Virginia Katherine Hawkins, Shannon E. Holbrook, Morgan Webb Jones.

Demetrios L. Kouzoukas, Claire Catherine Lauderdale, Katherine V. McMaster, C. Brook McShane, Frederick Andrew Messing, III, Carrie Allison Patton, Abraham Nathaniel Saiger, Clovis L. Thorn, Lisa Marie Wanaske.

GENERAL LEAVE

Mr. EMERSON. Mr. Speaker, I ask unanimous consent that all Members may have whatever time is necessary to revise and extend their remarks on the subject of my 1-minute speech on the pages today, because I know some Members who are not here may wish to have something to say.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Missouri?

There was no objection.

MESSAGE FROM THE SENATE

The SPEAKER pro tempore. (Mr. MONTGOMERY). The Chair lays before the House the following message from the Senate:

The Clerk read as follows:

S. CON. RES. 135

Resolved by the Senate (the House of Representatives concurring), That when the Senate recesses or adjourns at the close of business on Wednesday, August 12, 1992, pursuant to a motion made by the Majority Leader, or his designee, in accordance with this resolution, it stand recessed or adjourned until 12:00 noon, or until such time as may be specified by the Majority Leader, or his designee, in the motion to adjourn or recess, on Tuesday, September 8, 1992, or until 12:00 noon on the second day after Members are notified to reassemble pursuant to section 2 of this resolution, whichever occurs first; and that when the House of Representatives adjourns at the close of business on the legislative day of Wednesday, August 12, 1992, pursuant to a motion made by the Majority Leader, or his designee, in accordance with this resolution, it stand adjourned until 12:00 noon on Wednesday, September 9, 1992, or until 12:00 noon on the second day after Members are notified to reassemble pursuant to section 2 of this resolution, whichever occurs first.

SEC. 2. The Majority Leader of the Senate and the Speaker of the House, acting jointly after consultation with the Minority Leader of the Senate and the Minority Leader of the House, shall notify the Members of the Senate and the House, respectively, to reassemble whenever, in their opinion, the public interest shall warrant it.

The Senate concurrent resolution was concurred in.

A motion to reconsider was laid on the table.

MANIPULATION OF REPORTS FROM YUGOSLAVIA

(Mrs. BENTLEY asked and was given permission to address the House for 1 minute and to revise and extend her remarks).

Mrs. BENTLEY. Mr. Speaker, time after time I have urged the Congress to be careful in its approach to the civil war in Yugoslavia. We have little reliable intelligence about what is occurring over there, and remembering how we were manipulated in Kuwait with the horror story about babies being taken out of incubators, left to die by Saddam Hussein's soldiers, a lie run past us by a Washington PR firm, we must question all reports.

A featured photo in Newsweek and on the front page of the New York Times of August 7, may be just another example of this type of waging war.

Note, I say only that it is possible, because yesterday I spoke with a Serbian woman living in Vienna, Austria, who claims that the emaciated man called a picture of brutality by the Times and described as a prisoner of Serbian forces in Bosnia is her Serbian brother.

It is a possibility that someone might resemble her brother, Slobodan Konjevic, but in the films shown on CNN in Europe, she identified another brother, Zoran, in another group.

It is difficult to believe that she, her mother and her sister, could be mistaken on both. If she is correct, then why are two Serbians being identified as prisoners of Serbian forces in an internment camp? She desperately wants to get in touch with her brothers and is begging reporters who were there to find them for her.

I believe we need to know just what is going on and which camp is which.

Mr. Speaker, I include the following article:

SPIN DOCTORS OF WAR

It would have been perhaps the worst atrocity so far in a war where horror follows on horror: Serbian irregular snipers paid the equivalent of 300 pounds for every child-kill they achieve. The story was related by Steve Watt, a volunteer aid worker.

"They target the children," he said, "because of the money and because they are easier to kill. With their small size, the bullets make a bigger mess."

Mr. Watt's words were transmitted—along with his claimed statistic for 11,000 child injuries from gunshot wounds and some 400 child-deaths—on Sunday, the BBC's morning radio news service, The World This Weekend and, perhaps most importantly, on News Hour, the World Service flagship news programme the following day. They were thus read into the record for a potential English language audience of 300 million listeners worldwide.

And the story is almost certainly not true. No one imputes any ulterior motive in Mr. Watt's relating what he had been told by Croats and Bosnians in his brave journey in a truck convoy on the road to Sarajevo; but one does have to question the BBC's editorial judgment in the manner of its transmission.

Like many others of its genre, this story had it origins in Bosnia-Hercegovina, but owes more than a little in its passage to Croat/Bosnian, and now international, folklore to the outpourings of a PR company's fax machine in Washington, DC.

While origins of atrocity stories are frequently difficult to discern in war, the history of this one, unusually, can be traced. It first gained its credence in the Croatian media and, like many others from both sides of the conflict, it has little or no first-hand substantiation.

It made an appearance in an article written by Irtse Zortic, a Bosnian Muslim journalist working for a Croatian newspaper, the contents of which were subsequently repeated in other Coatian newspapers and formed part of a news broadcast transmitted by Radio Croatia International.

The service, which peppers its broadcast with items of blatant propaganda passing as "news", is treated with disdain by the western media. But like all international broadcasts, it is monitored by the BBC at Caversham, whose operators hear its other favoured subjects—Serbian salt mines operated with Croat and Bosnian slave labour and Kurdish militia fighting, for huge sums of money, for the Serbian cause.

The Caversham monitors record important information from the airwaves in the Summary of World Broadcasts. One said recently: "Frankly, much of what we get from all sides in this conflict is unusable, useless. Unless it is a speech or something like that, it usually finds it way to the bin." Which is what happened to Zortic's story.

Zortic stands by his story, but admitted last week that he was given it by the Croatian Information Ministry, in a private interview, and that he made no further checks. "Who could I ask?" he says. "You can't expect us to ring them [the Serbs] and believe them when they say it isn't true." But the tale, which is so widely accepted as fact in Croatia as to be described as an "old chestnut" by a senior western journalist covering the Yugoslav conflict, owes much to an earlier communication from the fax machine in the offices of Ruder and Finn in Washington.

Last week, Rhoda Paget from the company admitted to assisting in disseminating the "Cash for a Corpse" story. "We were told it by a minister in the Croatian government. We merely informed them of its importance and have never checked its honesty. Neither do we have the resources to do so. Frankly, it's just not our job. It's the journalist's job to check them out . . . but it came to notice by a surprising route." Rudder and Finn's "job" is to handle the PR account for the governments of Croatia and Bosnia-Hercegovina at a cost of US$18,000 (£9,700) a month, while British lobbying company, Ian Greer Associates, act in a similar regard "on behalf of Serbian interests", their undisclosed fee paid by a "syndicate of Serbian businessmen".

According to John MacArthur, publisher of Harpers magazine, and author of a book, Second Front, on the subject of public relations and propaganda in the Gulf war, it is the American company that is currently doing the better. "The relative success of these companies in getting horror stories into print is critical to the setting of the international political agenda," he says. "They affect votes in both the Security Council and the Conference on Security and Cooperation in Europe by altering the mind-set of an electorate who would never dream of reading a UN resolution. They establish the conditions which make it possible to be involved in a war."

MacArthur points to the success of PR company Hill and Knowlton in promoting the "Dead Kuwaiti Babies" story, in which Iraqi troops were alleged to have taken Kuwaiti babies out of their incubators and left them to die on the hospital floor. The story relied on the testimony of an eye-witness who subsequently gave televised testimony to the Congressional Human Rights Caucus. The "eye-witness" was subsequently revealed to be the daughter of the Kuwaiti ambassador to Washington who had been "told" about the killings by witnesses who have never since been produced.

"If this had been known at the time," John Edward Potter, senior Republican on the caucus said, "she would have not been allowed to testify". But the story of the story was not published until January this year, nine months after the end of Desert Storm. "Nayirah's testimony was critical for establishing the conditions where the American public would accept the deaths—any death—of their own,' says MacArthur. "It is ironic and immoral that such changes should have brought about misinformation, perhaps even a downright fake."

According to Tom O'Sullivan, a journalist at PR Week, both Steve Watt's and Nayirah's testimony provide what is called in PR-speak, "a classic third-party endorsement", although Nayirah's was not revealed as such at the time. A story is told, someone else retells it and in the retelling it often gets embroidered. Watt says he was told the child-killings story on the road in Sarajevo and has no first-hand knowledge. That means the real, true story is that someone, preferably English or an English speaker and a non-combatant, believes in its authenticity. "But the listener doesn't take it in as hearsay—instead they hear it as recorded fact," says Sullivan. "You could argue, that is what the PR industry is all about."

According to an executive at Hill and Knowlton who, although not acting for any Balkan interests, refused to be named, the fact that Croatia is not subjected to any embargo, even for weaponry, while Serbia faces sanctions, may itself be due to better PR. A recent investigation of reported atrocities showed that the number of substantiated incidents was similar, four perpetrated by Serbs, two by Croats, one by Muslims, and two by Muslims and Croats together.

John Kennedy, a Conservative parliamentary candidate at the last election, now a PR consultant with Ian Greer Associate who has worked on the Serbian account, says that the Serbian government in its support for Serbian irregulars is "faced with losing battles on the second (propaganda) front precisely because they have been winning the war. The public relations defeats do not bother the fighters, of course, but they have an indirect effect on their ability to prosecute their war."

Mr. Kennedy, usually labelled by BBC radio—and without further qualification—as "an expert on Serbian affairs", feels Greer's way is more subtle than that favored by the American companies, "We use the press," he said "but it is behind the scenes lobbying, and the use of governmental opinion to sway international governmental opinion where we are the most effective. The Serbs will now have more opportunity for pressing their cause. Milan Panic, prime minister of the rump Yugoslavia, numbers Lawrence Eaglesburger, U.S. assistant secretary of state among his closest friends.

FIFTIETH ANNIVERSARY OF BATTLE OF SAVO ISLAND

(Mr. DORNAN of California asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DORNAN of California. Mr. Speaker, before we all leave on this extended very hard work break, I want to take advantage of this moment to do something that I was unable to do Friday because the House was not in.

The longest heroic struggle in the history of the United States, a battle that raged for 6 months and 2 days, started last Friday, 50 years ago, on August 7, and concluded when the remaining several thousand Japanese troops escaped from Submarine Point on the Island of Guadalcanal, Cape Esperanz, in the first week of February 1943.

There are at least eight good books published on this battle of Guadalcanal, from "Guadalcanal Diary," published by a Marine correspondent, Richard Tragaskis, back during that period that was made into a popular cultural Hollywood movie at that time, right down to some definitive works published within the last 3 years.

Mr. Speaker, this struggle, hand-to-hand combat on Bloody Ridge, the worst naval defeat in history of 50 years ago on the 9th of August at Savo Bay, the comeback of our forces in this long struggle in that dark year of 1942 when we began the comeback.

I would recommend to the great historian, the gentleman from Massachusetts [Mr. DONNELLY], that during this break the gentleman from Massachusetts read one of the these Wake Island books or one of these Guadalcanal books and with the rest of my colleagues be motivated about some of the rough moments in this campaign year. It looks like we are never going to be able to work our way out of the red ink and massive debt in this Congress.

□ 1700

Believe me, 1942 is the year to inspire any American woman or man, any young person. We are Americans. We can accomplish anything.

Remember Guadalcanal. The 50th anniversary goes on for the next 6 months.

PERMISSION FOR SPEAKER TO EXTEND HIS REMARKS IN THE RECORD

Mr. DONNELLY. Mr. Speaker, I ask unanimous consent that the Speaker be permitted to extend his own remarks in the body of the RECORD, and to include therein extraneous material.

The SPEAKER pro tempore (Mr. ENGEL). Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

VACATION OF SPECIAL ORDER AND REQUEST FOR SPECIAL ORDER

Mr. DONNELLY. Mr. Speaker, I ask unanimous consent to vacate the 5-

minute special order of the gentleman from Indiana [Mr. JONTZ] for today and that the gentleman be recognized for a 60-minute special order today.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

WELCOME TO TAE KWON DO, MR. SPEAKER

(Mr. LIVINGSTON asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. LIVINGSTON. Mr. Speaker, today I would like to commemorate a development sure to have a profound effect on the future of our great Nation, and especially to our deliberative process here in the people's House of Representatives.

My colleagues, our distinguished Speaker himself, the gentleman from Washington [Mr. FOLEY], has signed up for a greater ability to fight back when under assault from his political adversaries. If he is not getting enough kick out of his job today, he will soon, for our Speaker has recently joined the Tae Kwon Do class taught by the distinguished master, Jhoon Rhee.

As one who has studied under Master Rhee for the last 14 years, I can confirm that this development augers well for a more robust House leadership, one that will chop right through the unnecessary obstacles.

As chairman of Jhoon Rhee's Tae Kwon Do class, I welcome the Speaker to our ranks, and I am confident that our Members are all eager to demonstrate their punching and kicking skills on—for him.

[From the Washington Times, Aug. 12, 1992]

JHOON RHEE: STILL KICKING UP A STORM AT AGE SIXTY

(By Cesar G. Soriana)

When he was 6 years old in his hometown of Suwon, South Korea, little Jhoon Rhee was beaten up by a very precocious 5-year-old girl. His mother was so humiliated that she spanked him.

The incident, he says, was the turning point in his life. There was no martial arts school in Suwon, but he began lifting weights. At 13, he moved in with his uncle in Seoul and began training with Master Won Kooklee at the Do Kwan School next door.

Today at age 60, the man who introduced Tae Kwon Do to the United States says his life and dreams have only just begun.

Grandmaster Rhee—who holds a 10th degree black belt, the most elite level of martial arts expertise—has been a familiar name to Washington with his chain of Jhoon Rhee Tae Kwon Do centers. After a stint in the South Korean army during the Korean War, Mr. Rhee came to the United States with $46 in his pocket and opened his first studio on K Street NW in 1962.

His goal of teaching the ancient martial art to America began when he was 13 and sneaked into a theater to watch American movies. "Right then, I decided I was going to go to America, marry a beautiful American blonde and open two Tae Kwon Do studios."

His dreams grew beyond expectations. Since 1965, he has been married to Han Rhee from his native Korea. His Tae Kwon Do empire has grown to 60 studios in the United States, 12 of those in the Washington area, plus another 65 studios in the former Soviet Union that popped up in less than three years.

"Communism was perfectly prepared for my message," he says, noting that Russians have long lacked entertainment and that martial arts had been banned by the Communists.

Still, he is not satisfied. Dreams, like life, he says, grow. His goal now is to establish 1,000 studios in the United States and another 1,000 in the Commonwealth of Independent States—to match the digits in his studios' familiar USA-1000 telephone number.

By his own reckoning, Mr. Rhee will have plenty of time to complete his goals. He plans to live to be 136 years old after watching a Soviet woman on "60 Minutes" who was 135 years old. "If she can do it, I can do one more," he explains.

Mr. Rhee exercises 90 minutes every morning and 30 minutes before bed. He completes an amazing 1,000 push-ups a day and eats only fish, vegetables, fruits and an occasional injulmi, a Korean rice cake.

During an interview in the Smithsonian's administrative offices, Mr. Rhee interrupts to demonstrate his flexibility. Dressed in a full suit and without warming up, he sits on the foor and, doing the splits, leans forward and touches the carpet with his forehead. "I couldn't do this when I was 53," he says.

Mr. Rhee's message stresses personal and mental growth alongside physical strength in Tae Kwon Do, the Korean form of martial arts. Tae Kwon Do is similar to the Japanese discipline of karate, but with emphasis on the feet rather than the hands. "In martial arts, without a philosophy, it's just street fighting," he says.

Six years ago, Mr. Rhee integrated Tae Kwon Do into the academic programs at six elementary public schools in Southwest Washington. Twice a week, he volunteers his time to teach children self-defense and philosophy, stressing his two basic disciplines: standing at attention to develop listening skills and bowing to gain "a sense of respect for teachers, parents and self." He is also working to develop a student exchange program between his District students and Russia.

The White House acknowledged his program in March when he was awarded the 721st "Point of Light" by President Bush. Congress also appropriated $43,000 to continue his program in area schools.

"My ultimate goal is to change young people's discipline. . . . In order to be happy you must have a discipline," he says.

Mr. Rhee credits his knowledge of discipline and philosophy to his extensive religious training. During his life, he has joined and studied the Catholic, Methodist, Unification and Middle Eastern Bahaism religions.

"I came to the conclusion that God is within me, within every human heart," he says.

For the past 27 years, Mr. Rhee also has been teaching Tae Kwon Do three times a week on Capitol Hill, where he has had more than 100 lawmakers as students. His newest student is House Speaker Thomas Foley.

"He is in very good shape," Mr. Rhee says of the Washington Democrat. "If he keeps it up, he'll be black belt in no time."

At his two-hour seminar tomorrow night, sponsored by the Smithsonian Resident Associate Program, Mr. Rhee hopes attendees will go away with a sense of his philosophy, which he calls "happyism."

"How would you like to be 100 years of wisdom in an 18-year-old body?" he asks. "I decided I was going to live my life as an example of how everyone should live: with knowledge in the mind, honesty in the heart and strength in the body."

A SHOCKING STATISTIC FROM DADE COUNTY

(Mr. STEARNS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. STEARNS. Mr. Speaker, this week the Florida Office of Health and Rehabilitative Services presented a shocking statistic.

One out of every 40 residents of Dade County, FL, is already infected with the AIDS virus. As many of you know, Dade County is home to one of America's beautiful and thriving cities—the city of Miami.

According to researchers at the University of Miami, there are several distinct subepidemics of HIV infection moving independently among gays, intravenous drug users, the homeless, heterosexual immigrants, women, and different racial or ethnic groups in Dade County. These cases all show distinctly different patterns, making them difficult to treat.

Mr. Speaker, this proves just how rapidly the AIDS virus is spreading. Just 12 years ago we would have been hard pressed to find 1 Dade County resident in 40 who knew what the AIDS virus was. Now 1 in 40 has it.

This is a tragedy and displays the seriousness of this dreaded disease.

HRS: ONE IN FORTY DADE DWELLERS HIV INFECTED

(By Linda Roach Monroe)

One out of every 40 residents of Dade County is already infected with the AIDS virus, the Florida AIDS office estimates.

And what's behind that figure, says a University of Miami epidemiologist, are several distinct sub-epidemics of HIV infection moving independently through different groups in the county.

Because a different AIDS prevention strategy is needed for each sub-epidemic, it will be harder to cope with an overall epidemic that is one of the fastest-growing in the country, say state officials.

AIDS cases among gays, intravenous drug users, the homeless, heterosexual immigrants, women and different racial or ethnic groups all show distinctly different patterns, says James M. Shultz, director of medical-student teaching in the UM epidemiology department.

Taken together, the new AIDS cases could mean $3.4 billion in additional costs for treatment over the next decade or so. Health officials estimate that an AIDS patient's care costs about $85,000 from the time of diagnosis until death.

The 1-in-40 HIV infection estimate was made by Spencer Lieb, a state Health and Rehabilitative Services official, at the re-

quest of the Dade HRS, which is trying to develop a strategy for coordinating AIDS efforts in the county.

The figure is based on a 1990 HRS estimate of 120,000 adults infected with HIV, the AIDS virus, in Florida. About a third of all diagnosed AIDS cases in adults are in Dade County. Therefore, Lieb says it's reasonable to expect that a third of the HIV infections also are in Dade—or 40,000 infections in a county of 1.6 million.

DIFFERENT RISKS

Lieb agreed that there are dramatic differences in the risk of HIV infection in different groups of people, particularly in Dade County.

In his unrelated analysis of federal AIDS figures, UM epidemiologist Shultz found that among non-Hispanic whites there are 14 men with AIDS for every woman with the disease. Among Hispanics, the ratio is slightly lower, 18 men for every one woman. But among blacks the ratio is 2 to 1, primarily because of intravenous drug use and heterosexual activity with drug users, Shultz says.

"Unlike San Francisco where—you have most of your AIDS cases in one or two categories—those involving male-to-male sexual contact—Miami has multiple sub-epidemics that are raging sub-epidemics in different geographical areas," Shultz says.

"What you see is what appears to be steady possibly declining numbers of cases in the homosexual/bisexual category," he says. "But the two pieces of the heterosexual epidemic are behaving completely differently.

"There has been a steady increase in the heterosexual cases among American-born people, from 3 percent to 9 percent since about 1984," he says. "But the numbers of heterosexual cases among immigrants from high-incidence AIDS countries have, if anything, stabilized in terms of total numbers and declined in terms of percentages of the overall AIDS cases."

"That is especially troubling because we're dealing with different behavioral and geographic and cultural aspects," he says.

"It's complicated because different groups have different stereotypes about aids," says Anita Bock, deputy district administrator for HRS in Dade.

"When we put together an education/prevention program, we have to be sensitive to the needs of each community."

LITTLE COORDINATION

Publicly funded AIDS education and treatment in the county already totals about $17 million a year, says Richard Stevens, in charge of HIV/AIDS planning for the Health Council of South Florida.

Currently, there is very little coordination in spending that money, so the county isn't very well prepared for another 40,000 AIDS cases, Stevens says.

"We have a long ways to go before we get a unified group," he said. "It's been ignored. And so it's just been the blind leading the blind, in terms of meeting the service demands. It's in disaray."

A COURSE IN BUSHONOMICS

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from Ohio [Ms. KAPTUR] is recognized for 5 minutes.

Ms. KAPTUR. Mr. Speaker, I rise this afternoon to draw attention to a new course being offered here in Washington, and it is called Bushonomics, and it is a course about how to create jobs everywhere else in the world but in the United States.

And there is a pattern to it.

Let us start with China, a very low-wage country, and let us talk about quilts. Yes, quilts. The National Quilting Bee exhibition is being held in Bowling Green, OH, this weekend, in my district, but the Bush administration has allowed the Smithsonian Institution to sign a licensing agreement with American Pacific Enterprises, Inc., to produce most of their quilts for us in China. Ironically the designs are for the American Heritage series of quilts.

Now we are talking about 3,000 to 4,000 quilts a month. This is not small business. How about that? United States reproduction quilts being sold and licensed out by our Smithsonian Institution in our Nation's Capital, contracted out to China.

The President did nothing about it.

Now let us turn to Mexico. Today the President made it official. The Bush administration has cast aside the interests of the citizens of the United States, of Mexico, and of Canada to get a quick deal on the North American so-called free-trade agreement that they have been negotiating. He announced that deal today, but just in time for the Republican Convention.

The Bush administration would like us to believe that this proposed agreement will create jobs in the United States, but that simply is not true. Although United States exports to Mexico have risen rapidly since 1986, it is also the case that United States imports from Mexico have been rising almost as fast. This occurs because the vast majority of United States exports to Mexico are capital goods and components, not consumer goods being bought by average citizens in that country. The goods we are sending over there are being used mainly to produce goods there that are then exported back to our country. They are not being sold to Mexican consumers.

Thus, U.S. jobs are really displaced, not created, and we know that real job growth is generated by increases in net exports; that is, the excess of things we send to another country versus what they send in here, not by exports that turn around and come back as manufactured goods a few months later.

In effect, Mr. Speaker, what we have going on right now is the incredible situation of unemployed workers in our country buying with their unemployment checks imported goods coming from China, coming from Mexico, made by workers who earn so little that they cannot even earn enough to buy what they make themselves. That is what Bushonomics gives us.

Mr. Bush would also like us to believe that a free trade agreement with Mexico will create more and better jobs in the United States. I would ask, "Haven't we heard that one?" But the record shows that the workers in our country displaced by trade are more likely to move down the job ladder to lower paying jobs or move off the ladder to permanent unemployment, not up the ladder to better jobs than they started with.

For example, in the apparel industry alone nearly half of the workers laid off during the 1980's have not found new jobs, and of those who were not reemployed, two-thirds were no longer even in our labor force. Is it any wonder we have homeless on the streets of cities like New York where over 500,000 workers in this country have been displaced out of our garment industry?

My State of Ohio has already lost 100,000 jobs to Mexico. I sometimes wonder if anybody here in Washington really cares. My district's unemployment rate is stuck now at double-digit levels, and every manufacturing plant in my home community of Toledo, OH, that has a plant in Mexico has either closed down entirely or moved large shares of its production to Mexico.

In order to understand what large scale job transfer to low wage Mexico means to average American workers who suddenly find themselves competing with one dollar wages, I want to tell my colleagues about a plant that has closed in my home community. Dura Mechanical Components has been the latest. It announced in May of last year, 1991, that it was shutting down its Toledo plant. Now the workers at this company produce window regulators and door hinges for the automotive industry. The remaining 140 hourly workers employed by this company lost their jobs. I mention this particular plant closing because Dura has a plant in Matamoros, Mexico, where workers earn under $1 an hour. Not surprisingly Dura transferred its production to Matamoros, Mexico.

So, I want to tell my colleagues the story of Mr. Gary Schondel, a former employee of Dura in my community.

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He is 56 years old and was employed at Dura Corp. since 1952. He was laid off in March of this year permanently.

During his career at Dura he learned a number of skills and worked as a material handler, a die cast machine operator, a production worker, a cold header operator, a timekeeper, a foreman, and a shipping clerk. Mr. Schondel was versatile and flexible, and he was dependable. He came to work decade after decade.

But in 1987, Mr. Schondel noticed the company was starting to ship parts to Dura Mexico. The parts were assembled in Mexico and returned to Dura Toledo to be relabeled and shipped to various customers.

After a period of time, the parts that were assembled in Mexico were shipped directly from Mexico to other customers, and during this time Dura em-

ployees took a pay cut of approximately $1.50 an hour while receiving at the same time top quality ratings from Ford Motor Corporation and also the highest rating from Chrysler for excellence in production.

Dura employees were told that the Q-1 rating would help them bring in new jobs, but instead their jobs were shipped out to Dura's plant in Mexico.

Mr. Schondel earned $10.70 per hour when he was laid off from Dura. Now his job will be performed for $1 an hour in Mexico. He was paying $40 a month for health insurance. Now that he has been laid off, he is without health insurance unless he pays $510.15 a month for the same coverage. His wife was also laid off from Dura Toledo after working there for 13 years. Now both husband and wife collect unemployment checks when they want desperately to be working.

This compelling testimony is just another example of what will happen under this NAFTA agreement. I urge my colleagues and I urge the American people to think twice about the implications of a North American Free Trade Agreement negotiated by the Bushonomics team. So far their record on jobs in the USA is abysmal.

SEXUAL TRAUMA SERVICES IN THE MILITARY—ABOUT TIME!

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from Colorado [Mrs. SCHROEDER] is recognized for 5 minutes.

Mrs. SCHROEDER. Mr. Speaker, this has been a summer of painful revelations about sexual violence in the military. From Tailhook to Tomcat, the military's best kept secret—is now out in the open. Five percent of all service women have suffered some form of sexual violence—from rape to assault. This could be as many as 60,000 incidents.

Today, with the support of many of my colleagues, I am introducing two bills to stop sexual violence in the military and provide victims of sexual violence with the best care possible. The first bill expresses the sense of Congress that sexual harassment is intolerable. It says that the military must reevaluate its educational programs in order to prevent sexual violence and create protections to help sexual assault victims come forward. Furthermore, the military must devise effective investigation and punitive procedures.

The second bill, which Senator ALAN CRANSTON first introduced in the Senate, the Women Veterans Health Programs Act of 1992, enables veterans, who are victims of sexual violence in the military, to receive priority care for sexual harassment as a service-related disability and sets up a toll-free number for confidential counseling. Furthermore, the bill mandates periodic reports on sexual trauma services at the VA and incident rates throughout the services.

All summer we have been hearing a lot about sexual violence in the military. Now it is time to do something about it.

Set forth below is the summary of the bill.

WOMEN VETERANS HEALTH PROGRAMS ACT OF 1992

TITLE I. SEXUAL TRAUMA SERVICES

Permits veterans who are survivors of sexual violence in the military to receive service-related disability priority treatment for Post-Traumatic Stress Disorder (PTSD) as a result of sexual trauma.

Allows VA Medical Centers to contract out for sexual trauma services.

Creates a 24 hour toll-free number, run by the VA, for confidential counseling and information on sexual violence.

Requires the VA to provide information about sexual trauma services to personnel separating from the military.

Mandates periodic reports on sexual trauma services available at the VA, the needs of sexual violence victims, and sexual violence sensitivity training for VA staff, as well as additional reports to assess the quality of sexual trauma services at the VA.

Makes sexual trauma services available for both female and male victims.

TITLE II. HEALTH CARE FOR WOMEN VETERANS

Mandates comprehensive women's health services at VA medical centers, including care for general reproductive health, menopause and Post-Traumatic Stress Disorder.

Allows VA medical centers to contract out for additional women's health care needs.

Expands research agendas on women's health as it relates to female veterans, including general reproductive health, gender specific cancers, mental health and aging.

Grants Women Veteran Coordinators and Regional Women Veterans Coordinators and the Advisory Committee on Women Veterans access to support services and resources to better meet the needs of women veterans.

Requires periodic and detailed reports of women's health services at the VA, status of the research on the health of women veterans, and quality assessment of such programs.

AUTHORIZATION

Authorizes $1.5 million for such programs in 1993, $2 million in 1994, and $2.5 million in 1995.

PUTTING FAMILIES IN FOCUS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Virginia [Mr. WOLF] is recognized for 5 minutes.

Mr. WOLF. Mr. Speaker, last month at the Democratic convention, Governor Clinton said he wants an America where "family values live in our actions, not just in our speeches"; the Governor of Arkansas invited everyone to "come on down * * * come to Arkansas" to take a look at what they have done.[1]

THE CLINTON FAMILY RECORD: THE RHETORIC VERSUS THE REALITY

A close look shows that after almost 12 years as Governor with a Democrat-controlled State legislature, solidly in his court, the statistics on family well-being in Arkansas are among the worst in the Nation. Arkansas actually has one of the Nation's worst records for child death rates, teen violent death rates, percent of children in poverty, percent of minority children in poverty, and percent of children in single-parent families.[2]

According to a bipartisan study by the Anne Casey Foundation published in the "Kids Count Data Book," Arkansas ranks 45th in the Nation for the well-being of children.[3]

Since 1980, the percentage of children living in poverty rose 18 percent amounting to 27 percent of children in Arkansas living in poverty, over 7 percentage points higher than the national average.[4]

The percent of low birthweight babies was 9 percent worse in Arkansas in 1989 than in 1980. Overall, Arkansas ranks 49th out of the 50 States and the District of Columbia in this statistic on family well-being.[5]

The percentage of children living in single parent families was 35 percent worse in Arkansas by the end of the Clinton decade; ranking Arkansas 42d in this statistic.[6]

Arkansas also has a record number of teen violent deaths which is approximately 30-percent higher than the national rate and ranks 47th in the Nation in this statistic on family well-being. These figures have skyrocketed in recent years.[7]

In another national study, child abuse and neglect was shown to have increased in Arkansas by 22.7 percent between 1982 and 1987. This increase is almost 10-percent higher than the national average and of 35 States reporting child abuse and neglect data between 1982 and 1987, Arkansas had the fourth highest increase in reported abuse and neglect.[8]

Bill Clinton claims he knows how to make change happen and help families. But are these the kind of changes we want to see throughout the country? I don't think this is the kind of change that Americans want nor are these the areas in which most Americans want to be in a leading role. And when Governor Clinton was appointed as a member on the bipartisan National Commission on Children, chaired by Senator ROCKEFELLER, he never attended even one meeting in over 2 years and he was the only member who failed to vote on the final report. Is this the concern we want from a man who would lead the Nation in renewing family values?

Additionally, according to a survey of recent census data done by a group Bill Clinton is well acquainted with—the Children's Defense Fund—his wife, Hillary Clinton was a board member, of black children under 18 years of age, 52 percent live below poverty—this ranks Arkansas 47th in terms of keeping

Footnotes at end of article.

black children out of poverty.[9] Just to give you a comparison, in Washington DC, 29.1 percent of black children live in poverty and in New York, the level is 34.1 percent and the national average is 39.8 percent of black children living in poverty.[10] Obviously all of these statistics are far too high, but Arkansas consistently comes in at the bottom of the barrel.

And all of this has occurred while the number of people on Government welfare has increased twice as much in Arkansas as in the country at large.[11] More than a fourth of all residents in about half of Arkansas' 75 counties, including Pulaski County that includes Little Rock, are eligible for welfare programs and Medicaid. Mr. Dodridge Daggett, a lawyer in Arkansas who heads Lee County's Child Support Enforcement Unit states, "We've developed a society that knows nothing other than 'I live on welfare.' "[12] In Mr. Daggett's area, more then 55 percent of the population receives food stamps and other welfare benefits.[13] With these kinds of returns of Bill Clinton's investments the only kind of change families can expect from Clinton is spare change.

Is this the kind of welfare system that Mr. Clinton thinks works? U.S. News & World Report in a story on Clinton's 1989 Project Success reports that since it began in 1989: welfare rolls in Arkansas have grown by 12 percent; only 4,092 of the 26,858 families required to enroll in a job program had done so; and even though Governor Clinton has said that "welfare reform works if you implement it vigorously and apply sanctions to enforce it," officials brought an average of just 203 cases to court a month during 1991, less than 1 percent of those on AFDC.[14] And U.S. News also points out that the one modestly successful program that Clinton has taken credit for, actually was started in 1982 during the Republican administration of Gov. Frank White.[15]

In the troubling area of the high number of teenager bearing children, Bill Clinton claims to have passed initiatives to reduce teen pregnancy. The programs he has been promoting are by his own admission, controversial.[16] But what are the results? In Arkansas, the births to young girls 15 to 17 has actually been steadily increasing since 1985.[17]

And while Clinton says he is the person to develop a world class education system, the results of Clinton's educational reform put Arkansas at the bottom of the class. The Clinton administration increased administrative costs by 15 percent, despite fewer students over the past decade and the ACT scores for high school students in Arkansas actually declined.[18] In 1979, the State ranked 20th of 28 States that primarily use the ACT college entrance test; 10 years later the State fell to 25th.[19] And three out of every four high school graduates must take remedial courses as college freshmen, twice the national average.[20] While Clinton blames Arkansas' persistent low standing nationally on decreases in Federal funding, Arkansas has ranked seventh in Federal expenditures as a percentage of school revenues and between 1983 and 1992, Federal spending for Arkansas education increased 34.5 percent.[21] Even the "Almanac of American Politics" notes of Governor Clinton's reforms, "By the beginning of the 1990's, these reforms had not shown their intended effects."[22]

Public protection and safety—an important issue for children and families—has also faired poorly in Arkansas. While crime increased 11.7 percent nationally between 1980 and 1990, it exploded in Arkansas at a rate of 55.1 percent,[23] Yet Arkansas spent the second lowest amount on police protection per capital in 1988–89 according to the Department of Justice Sourcebook of Criminal Justice Statistics.[24]

And in a State where 54 percent of the Government employees are women, what kind of work and family policies for State employees has Governor Clinton put in place compared to the Reagan and Bush administration?

Arkansas State employees (Clinton) versus Federal Employees (Bush)[25]

Telecommuting No policy. Agencies allowed to pay expenses for flexiplace telecommuting initiatives.

Job sharing: No policy. Money for OPM to help Federal workers to job share.

On-site child care: No policy. Ninety-one on-site centers for Federal workers at agencies throughout the country including an onsite center at the White House.

Leave sharing: No Policy. Almost every agency has established leave sharing so seriously ill employees can receive donated leave from coworkers.

Resource and referral for child care: No policy. Agencies participate in resource and referral.

Yes, Bill Clinton has had an opportunity for more than a decade to put his vision into action in the company of an overwhelmingly democrat controlled State legislature. Unlike President Bush who has had to battle with a Congress constantly philosophically opposed to his programs, Bill Clinton has been above to work continually with a legislative body controlled by his own party. He has had the privilege of putting his vision into action and these are the results.

THE REAGAN AND BUSH ADMINISTRATIONS: REAL CHANGES FOR REAL FAMILIES

On the other hand, even in dealing with a hostile Congress—the Reagan and Bush administrations have presided over many family friendly initiatives which Bill Clinton has not even registered on his policy screen. Under Reagan and Bush family friendly initiatives such as Government sponsored telecommuting projects that allow parents or disabled workers to work from home using computers and faxes, a Federal job sharing initiative that allows, for example, two mothers to share one full-time job; a leave sharing program that allows coworkers to contribute to a leave bank so an employee who is ill or has an ill family member can draw from this bank when their sick leave runs out; and onsite child care centers in 91 Federal office buildings throughout the country that allow working parents to be closer to their children during their working hours and spend time with them during the day. And today, the White House itself now has a child-care center because of legislation that was signed into law by the Reagan-Bush administration.

Republicans in the past decade also reversed the Democrats' 30-year erosion of the dependent tax exemption.[26] That exemption was doubled under Republican leadership and I have introduced legislation to increase the dependent deduction again—legislation which has gained the support of over 260 Members of this House but it remains bottled up in the Ways and Means Committee.[27] Allowing families to keep more of their own hard-earned money is one of the simplest and best ways to empower families and allow them to function on their own. Yet those who now say they want to reinvest in people seem to be blind to any help that removes the Government as middle man. If Bill Clinton really meant what he said in New York a few weeks ago he should challenge the Congress to pass this legislation now.

And while many in this body have partisanly attacked the tax cuts of the 1980's, the facts show that millions of low-income families were removed from the tax rolls and with the dramatically increased earned income tax credit signed into law by President Bush, low-income families today get tax refunds instead of tax bills. For example, in 1980, a poor family of four with earnings of $9,833 would have had a tax of $327; today that poor family receives a rebate of $1,235 under the vastly expanded earned income tax credit.[28] Middle-class families also had their Federal tax cut. For example, if the 1980 tax laws were still in effect, a family of four earning $35,353 would be paying $3,581 more in Federal income taxes this year.[29] In my State of Virginia, the tax burden on the average family of four would be $5,938 higher with the 1980 tax laws in place.[30] and let me remind you, the Clinton-Gore ticket has vehemently attacked these kind of changes that have truly helped families.

The facts of the Reagan and Bush years also show that despite partisan misrepresentation of the Republican record of the past decade, we have vastly increased the amounts of money we are spending on programs for families

and children over the past decade and will continue to do so in the near future:

Over the next 5 years, the Federal Government will spend $82 billion on social programs that did not exist in 1980 or on expansions of old programs.[31]

During the Reagan administration, contrary to partisan misrepresentation, funding for social programs actually increased approximately 20 percent in real dollars and spending on safety net programs increased by nearly 45 percent between 1981 and 1989 while the number of people in poverty increased by less than 1 percent.[32]

Yet while we have increased spending on social welfare programs, the Congress over the past 4 years has adamantly rejected any growth measures to provide jobs—the best domestic program available for helping families and children. When we look at States where children and families are faring well, it is more likely to be in States with strong economic growth.[33] Consistently growth measures have been rejected by the leadership of this Congress and I ask them if you want to see what happens to a place that tries to tax and spend its way out of poverty while stifling growth—go back to Arkansas and you will be going back to our future. A recent newspaper headline captures the essence of the Clinton record: "Poverty, limited growth and budget emergencies."[34] This is change?

It is simply untenable that the Congress has continually rejected the President's efforts for real change that would provide real growth and real jobs for real families. Let's get real here—this Congress has rejected every major growth initiative put forward by President Bush and every major structural change to the status quo whether it be in education or in economic revitalization of our inner cities, health care reform or criminal justice reform—areas that would make a real difference in the lives of families.

Clinton boasts, "I have worked on family issues harder and longer than anyone else running for President." Given his results, this is nothing to brag about and when you consider that those who would now pose as agents of change for families have held the President's change agenda and the future of American families, hostage for the past 4 years. It is time to set the American people and American families free from this Congress. President Bush has an agenda to change the opportunities, the well-being and the future of our families. President Bush has led this country in changing the world for the better and now he is the man to change America.

FOOTNOTES

[1] Acceptance Speech of Governor Bill Clinton to the Democratic Convention, New York City, July 16, 1992.

[2] "Kids Count Data Book," The Annie E. Casey Foundation, Center for the Study of Social Policy, 1992, p. 29.

[3] Id.

[4] Id.

[5] Id.

[6] Id.

[7] Id.

[8] "The State of the State's Children," National Governor's Association, 1990, p. 50.

[9] Children's Defense Fund, "Child Poverty Up Nationally and in 33 States, July 1992.

[10] *Id.*

[11] "The Clinton Record," the Washington Times, 7/26/92, A6.

[12] *Id.*

[13] *Id.*

[14] U.S. News and World Report, April 1992

[15] Id.

[16] Speech by Governor Bill Clinton to Cleveland City Club, May 21, 1992, p.2.

[17] Arkansas Family Council, Little Rock, Arkansas, 1992.

[18] "Arkansas Rankings," Bush/Quayle 92 factsheet, August 1992.

[19] Id.

[20] Id.

[21] "Arkansas: Before and After Bill Clinton," Fact Sheet from Bush/Quale '92, July 1992.

[22] "The Almanac of American Politics 1992," Michael Barone and Grant Ujifusa, p. 57.

[23] "The Clinton Record: Poverty, limited growth and budget emergencies," the Washington Times, July 26, 1992, A1.

[24] "Arkansas after 11 years of Bill Clinton," Fact sheet from Bush/Quayle '92, July 1992.

[25] Information obtained from the Work and Family Institute, New York City.

[26] The 1986 tax bill doubled the personal exemption to $2,000. The exemption, adjusted for inflation is now $2,300 in 1992.

[27] H.R. 1227, the Tax Fairness for Families Act of 1991, has 262 cosponsors.

[28] "Do if Yourself Tax Fairness Test U.S. Individual Income Tax Return, 1980 vs. 1991," Office of Senator Phil Gramm, March 7, 1992.

[29] Id.

[30] Id.

[31] "Moving Ahead: Initiatives for Expanding Opportunity in America," House Wednesday Group, October 1991.

[32] Id.

[33] See "Kids Count Data Book."

[34] "The Clinton Record: Poverty, limited growth and budget emergencies," the Washington Times, July 26, 1992, A6.

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INTRODUCTION OF THE SHIPPING ACT OF 1992

The SPEAKER pro tempore (Mr. ENGEL). Under a previous order of the House, the gentleman from Delaware [Mr. CARPER] is recognized for 5 minutes.

Mr. CARPER. Mr. Speaker, my friend, the gentleman from Virginia [Mr. WOLF], has just gone into a litany of sins or alleged sins of Governor Clinton in Arkansas. I would also add to that that one of the legacies of the Clinton administration in Arkansas has been not to leave a mountain of debt on the young people, the next generation of that State.

The Governor has presided over 12 years of balanced budgets in his State. I wish this administration and its predecessor could say as much.

Mr. Speaker, today I rise to introduce the shipping Act of 1992, a bill to amend the Shipping Act of 1984 by providing U.S. shippers—with the ability to contract directly with U.S. carriers, and to limit the price-fixing authority of the ocean-wise conferences. This bill should help U.S. shippers, who are increasingly finding it more difficult to remain competitive within the global marketplace, and U.S. carriers, by allowing them to form partnerships in world trade with the country's shippers.

Under the 1984 Shipping Act, shippers are often severely restricted or prohibited by the ocean liner conferences from entering into contracts, and when they do enter into contracts the essential terms of the contract must be publicly disclosed. To make matters worse, the statute tends to prevent contract modifications from being made, even when both contracting parties agree to the changes. My legislation would amend the statute to allow U.S. shippers and carriers to enter into long-term contracts, without conference or Federal Maritime Commission [FMC] interference. Such contracts will put U.S. shippers and carriers on a level playing field with foreign shippers and carriers who are currently able to enter into such contracts and to use them as an advantage in marketing exports.

The Shipping Act of 1992 also limits antitrust immunity to conferences whose aggregated market share of liner capacity does not exceed 60 percent in the involved trade or route. If a conference's market share does exceed 60 percent, the conference must obtain certification from the U.S. attorney general that it is not likely to reduce transportation services or increase transportation costs. My interest in limiting the antitrust immunity stems from the so-called talking agreements between conferences and independent carriers, as well as my concern over the development of superconferences, which would include all, or almost all, of the carriers participating in a particular trade. In some trades, conferences already control more than 80 percent of the cargo, which may or may not be a bad thing for shippers, but under my legislation, it would have to be evaluated by the attorney general for its effect on transportation costs and services.

By introducing this legislation, I hope to draw attention to the 1984 Shipping Act during the debate over the administration's maritime reform initiative, which was formally introduced by Merchant Marine and Fisheries Committee chairman WALTER B. JONES on July 21, 1992. The administration's initiative was the product of the working group on maritime policy, which included heads of 17 departments and agencies. According to Transportation Secretary Andrew H. Card, Jr., chairman of the working group, its purpose was "to advise the president on what is needed to meet the requirements of national sealift capacity while sustaining a viable commercial presence." Secretary Card should be commended for his work on this initiative, for if it were enacted, I believe it would help in revitalizing the U.S. mer-

chant marine. Unfortunately, the initiative falls far short in addressing the concerns of U.S. shippers.

I expressed this concern to Secretary Card during his testimony before the Merchant Marine and Fisheries Committee on July 8, 1992, and he agreed with me, but was unwilling to advocate reforms for the Shipping Act of 1984 as part of, or along with, the administration's new maritime initiative. I have been informed, however, that the Secretary is willing to meet with me and both shipper and carrier representatives to discuss shipper concerns. after the introduction of this legislation, if I find there to be interest in such a meeting, I will try to set something up with the Secretary.

I know that this legislation will generate some concern among the U.S. carriers, but I hope that they will work with me in trying to address some of the concerns that have been raised by U.S. shippers before the committee considers maritime reform legislation. Clearly, the U.S. merchant marine is disadvantage because of government overregulation and unfair foreign government practices, and like chairman JONES said in his opening statement before the July 8 hearing, "why would any owner want a vessel under the U.S. flag?" I want to make it more attractive for shipping corporations to own U.S.-flagged vessels, and I want to improve the competitiveness of our shippers. I do not agree, however, with those that say the competitiveness of our carriers has to be sacrificed to make our shippers more competitive.

The 1992 Shipping Act was crafted with the assistance of the Alliance For Competitive Transportation [ACT], which represents a diverse membership of nearly 100,000 large, medium, and small shippers. I would like to urge all Members of the house to join me in cosponsoring this legislation, for I believe it will benefit not only U.S. shippers and carrier, but also consumers, for it will allow importers to negotiate for the best deal on the transportation of their materials and products.

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COMMUNICATION FROM THE SPEAKER

The SPEAKER pro tempore laid before the House the following communication from the Speaker of the House of Representatives:

AUGUST 12, 1992.

I hereby designate the Honorable Steny H. Hoyer to sign enrolled bills and joint resolutions through September 9, 1992.

THOMAS S. FOLEY,
Speaker of the House of Representatives.

TRIBUTE TO CMDR. DANIEL A. ELLISON

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Rhode Island [Mr. MACHTLEY] is recognized for 5 minutes.

Mr. MACHTLEY. Mr. Speaker, I rise today to ask my colleagues to join me in paying tribute to a dedicated U.S. Navy officer and gentleman as he concludes 22 years of distinguished service to his country.

Cmdr. Daniel A. Ellison deserves this honor. We owe him a debt of gratitude for his professional and heroic contributions to our Nation. I am also proud to say that Commander Ellison is a fellow classmate from the U.S. Naval Academy, class of 1970, and a friend.

Commander Ellison's personal and professional career accomplishments read like a prototype study of the military leader this Nation has depended on to serve in both peace and war. I would like to take a moment to reflect on Dan's career before he begins another chapter in civilian life.

After graduating from the U.S. Naval Academy in 1970, this Montana-grown officer served with distinction as a naval aviator for 15 years.

His deployments as a naval aviator include service in Southwest Asia (1973), the North Arabian Sea (1984), and 3 tours in Antarctica. In addition, he was twice selected as navy helicopter pilot of the year for humanitarian rescue operations in the Sierra Nevada mountains.

Dan has served as a special assistant to the commander in chief of U.S. space command and to the Vice Chairman of the Joint Chiefs of Staff, where he assisted in policy recommendations at the very highest levels for our national security interests.

His last tour of duty has been as the senior deputy legislative assistant to the Chairman of the Joint Chiefs of Staff. During Operations Desert Shield-Desert Storm, Dan escorted many House and Senate delegations to the Middle East. He has been General Powell's principal liaison with the House and Senate Foreign Affairs/Relations and Intelligence Committees during a rather momentous time in our Nation's history.

Commander Ellison has previously been awarded the Distinguished Flying Cross, Defense Meritorious Service Medal, the Air Medal with Bronze Star, the Joint Service Commendation Medal, the Joint Service Achievement Medal, the Navy Commendation Medal, and the Navy Achievement Medal.

Mr. Speaker, it is a great honor for me to present the credentials of Dan Ellison before the House today. It is clear through his stated and unstated accomplishments for his country that he is a person who has dedicated himself to the peace and freedom we enjoy as a nation today. All his actions reflect a true leader with a clear sense of purpose, conviction, and conscience.

I ask my colleagues to join with me in delivering a sincere salute from a grateful nation and our best wishes for a happy and rewarding retirement.

We wish Dan success in his future endeavors, fair winds and following seas. I know Dan will join me in exclaiming to his fellow officers as he departs the Joint Chiefs, "Beat Army."

COMMUNICATION FROM THE CHAIRMAN OF THE COMMITTEE ON THE BUDGET REGARDING CURRENT LEVEL OF SPENDING AND REVENUES FOR FISCAL YEARS 1992-96

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California [Mr. PANETTA] is recognized for 5 minutes.

Mr. PANETTA. Mr. Speaker, on behalf of the Committee on the Budget and as chairman of the Committee on the Budget, pursuant to the procedures of the Committee on the Budget and section 311 of the Congressional Budget Act of 1974, as amended, I am submitting for printing in the CONGRESSIONAL RECORD the official letter to the Speaker advising him of the current level of revenues for fiscal years 1992 through 1996 and spending for fiscal year 1992. Spending levels for fiscal years 1993 through 1996 are not included because annual appropriations acts for those years have not been enacted.

This is the ninth report of the 102d Congress for fiscal year 1992. This report is based on the aggregate levels and committee allocations for fiscal years 1992 through 1996 as contained in House Report 102–69, the conference report to accompany House Concurrent Resolution 121.

The term "current level" refers to the estimated amount of budget authority, outlays, entitlement authority, and revenues that are available—or will be used—for the full fiscal year in question based only on enacted law.

As chairman of the Budget Committee, I intend to keep the House informed regularly on the status of the current level.

COMMITTEE ON THE BUDGET,
Washington, DC, August 12, 1992.

Hon. THOMAS S. FOLEY,
Speaker, U.S. House of Representatives, Washington, DC.

DEAR MR. SPEAKER: To facilitate enforcement under sections 302 and 311 of the Congressional Budget Act, as amended, I am herewith transmitting the status report on the current level of revenues for fiscal years 1992 through 1996 and spending estimates for fiscal year 1992, under House Concurrent Resolution 121, the Concurrent Resolution on the Budget for Fiscal Year 1992. Spending levels for fiscal years 1993 through 1996 are not included because annual appropriations acts for those years have not been enacted.

The enclosed tables also compare enacted legislation to each committee's 602(a) allocation of discretionary new budget authority and new entitlement authority. The 602(a) allocations to House Committees made pursuant to House Concurrent Resolution 121 were printed in the statement of managers accompanying the conference report on the resolution (H. Report 102–69).

Sincerely,

LEON E. PANETTA,
Chairman.

REPORT TO THE SPEAKER OF THE U.S. HOUSE OF REPRESENTATIVES FROM THE COMMITTEE ON THE BUDGET ON THE STATUS OF THE FISCAL YEAR 1992 CONGRESSIONAL BUDGET ADOPTED IN H. CON. RES. 121—REFLECTING COMPLETED ACTION AS OF AUGUST 11, 1992

[On-budget amounts, in millions of dollars]

	Fiscal year 1992	Fiscal years 1992–96
Appropriate Level:		
Budget Authority	1,269,300	6,591,900
Outlays	1,201,600	6,134,100
Revenues	850,400	4,832,000
Current Level:		
Budget Authority	1,269,254	NA
Outlays	1,205,909	NA
Revenues	853,366	4,834,000
Current Level over(+)/ under(−) Appropriate Level:		
Budget Authority	−46	NA
Outlays	+4,309	NA
Revenues	+2,966	+2,000

NA=Not applicable because annual Appropriations acts for those years have not been enacted.

BUDGET AUTHORITY

Any measure that provides new budget or entitlement authority that is not included in the current level estimate, and exceeds $46 million in budget authority for fiscal year 1992, if adopted and enacted, would cause the appropriate level of budget authority for that year as set forth in H. Con. Res. 121 to be exceeded.

OUTLAYS

Any measure that 1) provides new budget or entitlement authority that is not included in the current level estimate for fiscal year 1992, and 2) increases outlays in fiscal year 1992, if adopted and enacted, would cause the appropriate level of outlays for that year as set forth in H. Con. Res. 121 to be exceeded.

REVENUES

Any measure that would result in a revenue loss that is not included in the current level revenue estimate and exceeds $2,966 million for fiscal year 1992, if adopted and enacted would cause revenues to be less than the appropriate level for that year as set forth in H. Con. Res. 121. Any measure that would result in a revenue loss that is not included in the current level revenue estimate for fiscal years 1992 through 1996, if adopted and enacted, would cause revenues to be less than the appropriate level for those years as set forth in H. Con. Res. 121.

DIRECT SPENDING LEGISLATION

[Fiscal year, in million of dollars]

	1992		1992–1996			
	Budget authority	Outlays	New entitlement authority	Budget authority	Outlays	New entitlement authority
House committee:						
Agriculture:						
Appropriate Level	0	0	0	3,720	3,540	4,716
Current Level	−2	−2	−1	−1	−1	(*)
Difference	−2	−2	−1	−3,719	−3,539	−4,716
Armed Services:						
Appropriate Level	0	0	0	0	0	0
Current Level	0	−7	−7	0	−83	−83
Differemce	0	−7	−7	0	−83	−83
Banking, Finance and Urban Affairs:						
Appropriate Level	0	0	0	0	0	0
Current Level	28	28	0	177	177	0
Difference	+28	+28	0	+177	+177	0
District of Columbia:						
Appropriate Level	0	0	0	0	0	0
Current Level	0	0	0	0	0	0
Difference	0	0	0	0	0	0
Education and Labor:						
Appropriate Level	0	0	56	0	0	20,153
Current Level	−305	−270	−305	−329	−339	−350
Difference	−305	−270	−249	−329	−339	−20,503
Energy and Commerce:						
Appropriate Level	0	0	0	0	0	0
Current Level	0	0	0	0	0	0
Difference	0	0	0	0	0	0
Foreign Affairs:						
Appropriate Level	0	0	0	0	0	0
Current Level	0	0	0	0	0	0
Difference	0	0	0	0	0	0
Government Operations:						
Appropriate Level	0	0	0	0	0	0
Current Level	0	0	0	0	0	0
Difference	0	0	0	0	0	0
House Administration:						
Appropriate Level	0	0	0	0	0	0
Current Level	0	0	0	0	0	0
Difference	0	0	0	0	0	0
Interior and Insular Affairs:						
Appropriate Level	0	0	0	0	0	0
Current Level	−2	−2	0	5	5	0
Difference	−2	−2	0	+5	+5	0
Judiciary:						
Appropriate Level	0	0	0	0	0	0
Current Level	0	0	0	16	16	16
Difference	0	0	0	+16	+16	+16
Merchant Marine and Fisheries:						
Appropriate Level	0	0	0	0	0	0
Current Level	0	0	(*)	0	0	(*)

DIRECT SPENDING LEGISLATION—Continued

[Fiscal year, in million of dollars]

	1992		1992–1996			
	Budget authority	Outlays	New entitlement authority	Budget authority	Outlays	New entitlement authority
Difference	0	0	(*)	0	0	(*)
Post Office and Civil Service:						
Appropriate Level	0	0	0	0	0	0
Current Level	0	0	0	0	0	0
Difference	0	0	0	0	0	0
Public Works and Transportation:						
Appropriate Level	16,353	0	0	117,799	0	0
Current Level	18,087	−33	0	112,621	−88	0
Difference	+1,729	−33	0	−5,178	−88	0
Science, Space and Technology:						
Appropriate Level	0	0	0	0	0	0
Current Level	0	0	0	0	0	0
Difference	0	0	0	0	0	0
Small Business:						
Appropriate Level	0	0	0	0	0	0
Current Level	0	0	0	0	0	0
Difference	0	0	0	0	0	0
Veterans' Affairs:						
Appropriate Level	0	0	484	0	0	6,811
Current Level	−3	2	378	−4	15	2,182
Difference	−3	+2	−106	−4	+15	−4,629
Ways and Means:						
Appropriate Level	0	0	0	0	0	620
Current Level	8,016	8,016	8,986	12,835	12,835	14,295
Difference	+8,016	+8,016	+8,986	+12,835	+12,835	+13,675
Permanent Select Committee on Intelligence:						
Appropriate Level	0	0	0	0	0	0
Current Level	(*)	(*)	(*)	(*)	(*)	(*)
Difference	(*)	(*)	(*)	(*)	(*)	+1

*Less than $500,000.

DISCRETIONARY APPROPRIATIONS, FISCAL YEAR 1992

[In millions of dollars]

	Revised 602(b) subdivisions		Latest current level		Difference	
	Budget authority	Outlays	Budget authority	Outlays	Budget authority	Outlays
Commerce-Justice-State-Judiciary	21,070	20,714	21,088	20,721	18	7
Defense	270,244	275,222	262,763	272,658	−7,481	−2,564
District of Columbia	700	690	700	690	0	0
Energy & Water Development	21,875	20,770	21,870	20,718	−5	−52
Foreign Operations	15,285	13,556	14,295	13,449	−990	−107
Interior	13,102	12,050	13,077	12,186	−25	136
Labor, Health & Human Services, & Education	59,087	57,797	59,074	57,832	−13	35
Legislative	2,344	2,317	2,303	2,270	−41	−47
Military Construction	8,564	8,482	8,427	8,413	−137	−69
Rural Development, Agriculture, & Related Agencies	12,299	11,226	12,285	11,220	−14	−6
Transportation	13,765	31,800	13,752	31,798	−13	−2
Treasury-Postal Service	10,825	11,120	10,824	11,119	−1	−1
VA-HUD-Independent Agencies	63,953	61,714	63,315	61,707	−638	−7
Grand total	513,113	527,458	503,773	524,781	−9,340	−2,677

CONGRESSIONAL BUDGET OFFICE,
Washington, DC, August 12, 1992.

Hon. LEON E. PANETTA,
Chairman, Committee on the Budget, U.S. House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN: Pursuant to section 308(b) and in aid of section 311 of the Congressional Budget Act, as amended, this letter and supporting detail provide an up-to-date tabulation of the on-budget current levels of new budget authority, estimated outlays, and estimated revenues for fiscal year 1992 in comparison with the appropriate levels for those items contained in the 1992 Concurrent Resolution on the Budget (H. Con. Res. 121). This report is tabulated as of close of business August 11, 1992, and is summarized as follows:

[In millions of dollars]

	House current level	Budget resolution (H. Con. Res. 121)	Current level +/− resolution
Budget Authority	1,269,254	1,269,300	−46
Outlays	1,205,909	1,201,600	+4,309
Revenues:			
1992	853,366	850,400	+2,966
1992 to 1996	4,834,000	4,832,000	+2,000

Since my last report, dated July 22, 1992, the President has signed the Higher Education Amendments bill (P.L. 102–325) and a bill providing for the transfer of certain naval vessels (P.L. 102–322). The Congress also cleared and the President signed a bill providing for partial restoration of highway obligational authority (P.L. 102–334). These actions changed the estimates of budget authority and outlays.

Sincerely,

JAMES L. BLUM,
(For Robert D. Reischauer).

PARLIAMENTARIAN STATUS REPORT—102ND CONGRESS, 2ND SESSION—HOUSE ON-BUDGET SUPPORTING DETAIL FOR FISCAL YEAR 1992 AS OF CLOSE OF BUSINESS AUGUST 11, 1992

[In millions of dollars]

	Budget authority	Outlays	Revenues
ENACTED IN PREVISION SESSIONS			
Revenues			853,364
Permanents and other spending legislation	807,617	727,237	
Appropriation legislation	686,331	703,643	
Mandatory adjustments [1]	(1,208)	950	
Offsetting receipts	(232,542)	(232,542)	
Total previously enacted [2]	1,260,198	1,199,288	853,364
ENACTED THIS SESSION			
Emergency Unemployment Compensation Extension (P.L. 102–244)	2,706	2,706	
American Technology Preeminence (P.L. 102–245)			(*)
Further Continuing Appropriations, 1992 (P.L. 102–266) [3]	14,178	5,724	
Extend Certain Expiring Veterans' Programs (P.L. 102–291)	([3])	([3])	
1992 Rescissions (P.L. 102–298)	(8,154)	(2,499)	
Disaster Assistance for Los Angeles and Chicago (P.L. 102–302) [4]	81	15	
Unemployment Compensation (P.L. 102–318)	980	980	
Transfer of Certain Naval Vessels (P.L. 102–322)			2
Higher Education Amendments (P.L. 102–325)	(305)	(270)	
Partial Restoration of Highway Obligational Authority (P.L. 102–334)	(427)	(33)	
Total enacted this session	9,056	6,621	2
MANDATORY ADJUSTMENTS [1]			
Technical Correction to the Food Stamp Act (P.L. 102–265)	(*)	(*)	
Total current level	1,269,254	1,205,909	853,366
Total budget resolution	1,269,300	1,201,600	850,400
Amount remaining:			
Over budget resolution		4,309	2,966
Under budget resolution	46		

[1] Adjustments required to conform with current law estimates for entitlements and other mandatory programs in the Concurrent Resolution on the Budget (H.Con.Res. 121).
[2] Excludes the continuing resolution enacted last session (P.L. 102–145) that expired March 31, 1992.
[3] In accordance with Section 251(a)(2)(D)(i) of the Budget Enforcement Act the amount shown for P.L. 102–266 does not include $107 million in budget authority and $28 million in outlays in emergency funding for SBA disaster loans.
[4] In accordance with Section 251(a)(2)(D)(i) of the Budget Enforcement Act the amount shown for P.L. 102–302 does not include $995 million in budget authority and $537 million in outlays in emergency funding.

* Less than $500,000.

Note: Amounts in parenthesis are negative.

OUR RESOLVE TO OBTAIN FULL COMPLIANCE BY IRAQ

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Florida [Mr. GOSS] is recognized for 5 minutes.

Mr. GOSS. Mr. Speaker, as Congress departs for its 4-week summer recess, there is need to recall that the world still turns and that unfinished business remains, even as we leave. Yesterday we responded promptly to a clear need when we passed House Resolution 554, providing authorization for decisive action in the former Yugoslavia.

But we have been slower and less responsive on other matters. In the beginning of April, this gentleman and many cosponsors introduced a resolution—House Concurrent Resolution 301—to allow Congress to go on record in support of the U.N. efforts to enforce full Iraqi compliance with all cease-fire conditions, including U.N. Security Council Resolutions 687, 707, and 715.

In the 4½ months since this measure was introduced, Saddam Hussein has repeatedly breached these cease-fire conditions and flaunted his disrespect for international rule of law.

Saddam has waged a brutal campaign of extermination and repression against his own citizens. According to the State Department, military force—including the use of prohibited fixed-wing aircraft—has been used against Kurds in the north and Shiites in the south; entire Iraqi villages have been wiped out. The contingent of U.N. guards, who have the unenviable task of trying to prevent such attacks, has been rapidly depleted due to Saddam's refusal to grant visas for replacement guards. In addition, many of those who are in country are apparently confined to their camps, prevented from doing their jobs.

Thousands of people are dying—these are human rights abuses in their most extreme form. And that is not all; the United States, and the international coalition which defeated Saddam swiftly and soundly in war, is in danger of losing the peace. Although the media only covers Iraq's breach of U.N. resolutions when there is a flareup, such as the recent standoff at the Ministry of Agriculture, Saddam's noncompliance has been deliberate and extended and intentionally provocative.

Resolution 687 requires Baghdad to respect the inviolability of its border with Kuwait, as demarcated by the United Nations on the basis of the 1963 border agreement. While claiming to follow the resolution, Saddam refuses to accept the U.N. Border Commission's work. Indeed, Iraq continues to lay claim to Kuwait, and we are again hearing statements such as: "Iraq has been convinced, ever since its independence, that Kuwait is part of it," and that to "return it to the mother homeland" is the cause "of an entire nation." This claim was made by Iraq's Ambassador to the United Nations on July 5, 1992." deja vu all over again, as Mr. Berra used to say.

Resolution 687 further requires that Iraq declare, destroy, remove, or render harmless under U.N. supervision, and prohibits the development, construction, or acquisition of the following: Chemical, biological, and nuclear weapons, and long-range ballistic missiles.

Instead, Iraq has hindered all U.N. efforts to accurately inspect and account for these weapons. Some examples:

They have deliberately strewn hazardous materials and unexploded munitions at chemical weapons inspection sites.

They destroyed undamaged buildings at their primary biological weapons plant, spreading large quantities of dirt over the rubble to prevent accurate sampling.

The Iraqi Army continues to obstruct investigation into its surviving Scud missiles and the Iraqi missile project.

And after months and months of inquiry, Iraq's Clandestine Nuclear Program still remains a puzzle with many of the pieces missing.

Additional breaches of Resolution 687, with regard to return to stolen Kuwaiti property, Red Cross access to prisoners from the gulf war, and support of international terrorism have been documented by the State Department.

Yesterday the U.N. Security Council met to hear testimony about Saddam's human rights abuses, and it seems there is a persuasive case that some form of intervention may be needed to stop these atrocities.

Mr. Speaker, the President and the United Nations have been firm in their efforts to enforce the cease-fire agreements as embodied by the Security Council Resolutions. I am disappointed that we in the U.S. Congress have failed to act in concert with our President and the United Nations on this

issue. We had the chance to go on record to reaffirm our support of timely and necessary action by the United Nations to prevent Iraq's rogue government from further abuses, and we have yet taken it.

It is my fervent hope that the situation will change; that Iraq will pay up its war debt; will pay damages for the savagery it visited on people and the environment by torching the oil wells; that no additional force will be needed before Iraq complies with its obligations. But history makes me doubt that Saddam will have a sudden change of heart.

I urge leadership to take up this matter as soon as we reconvene in September, so the voice of Congress will be heard and that voice will strengthen and resolve of the United Nations to obtain full compliance by Iraq to the resolutions. We've got enough trouble in the world—we don't need any more from Saddam.

TIME TO GET RESTITUTION FROM FINANCIAL INSTITUTION CROOKS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Illinois [Mr. ANNUNZIO] is recognized for 5 minutes.

Mr. ANNUNZIO. Mr. Speaker, this morning, the Financial Institutions Subcommittee favorably reported H.R. 5538, the Financial Institutions Restitution Collection Improvement Act of 1992. This bill will improve the collection of restitution from convicted financial institution crooks.

Also this morning, Public Citizen, the public interest group founded by Ralph Nader, sent me a strong letter in support of the bill. The letter points out that the bill closes a number of loopholes that crooks use to avoid paying court-ordered restitution. Public Citizen praises the bill, saying it "will improve the Government's recovery of money looted by S&L crooks at the taxpayer's expense."

The bill has been referred to the Judiciary Committee, as well as the Banking Committee. I understand that some members of that committee have expressed reservations that the bill is to aggressive in requiring that financial institution crooks must pay restitution without regard to their ability to repay at the time of sentencing. The taxpayers have been required to pay over $200 billion to clean up the bank and savings and loan messes. Nobody has asked the taxpayers whether they can afford to pay or not. Let's not ask the crooks who have squandered billions of dollars whether they can afford to pay. Let's order them to pay and then squeeze it out of them.

Concern has also been raised about the provisions of the bill which allow the Attorney General to attach the assets of persons before they are indicted. This provision is intended to prevent the crooks from hiding or transferring their assets prior to their conviction. This provision is absolutely necessary if we are to improve on the depressingly low recovery rate of, at best, five percent of the amount of restitution ordered.

The letter from Public Citizen sets forth a number of the other beneficial provisions of H.R. 5538. The act makes restitution due in full immediately. Restitution orders remain effective until completely paid. Liens are placed on all the property of convicted financial institution crooks. I ask that the entire text of the letter be printed in the RECORD.

I hope that the Judiciary Committee will take note of the unanimous vote of the Financial Institutions Subcommittee and the voice of Public Citizen. Both cry out for a strong restitution collection bill like H.R. 5538. I strongly urge my colleagues in the Judiciary Committee to move it to the floor as quickly as possible.

PUBLIC CITIZEN,
Washington, DC, August 12, 1992.

DEAR SUBCOMMITTEE MEMBER: We are writing today to urge you to support H.R. 5538, the Financial Institution Restitution Collection Improvement Act. Introduced by Reps. Frank Annuzio and Chalmers Wylie, this bipartisan proposal will improve the government's recovery of money looted by S&L crooks at the taxpayer's expense.

Currently, federal authorities are doing a poor job collecting court-ordered fines and restitution from convicted S&L felons. A study written by the staff of the Subcommittee on Financial Institution Supervision found that 19 S&L looters had paid on average one cent on the dollar of their restitution. Furthermore, under the present guidelines, judges can allow restitution to be recovered after jail sentences are served, allowing criminals to hide or transfer their assets out of the government's reach. Additionally, court-ordered fines are currently based on the defendant's ability to pay, unlike civil cases, which do not take that into account. These and other problems have hindered the administration's ability to make collections, making the thrift rescue effort more costly for taxpayers.

H.R. 5538 goes a long way towards alleviating these problems. By making restitution due in full at the time of sentencing and in perpetuity, the bill will give the administration greater ability to locate and collect restitution earlier and for an indefinite time. The measure bases restitution on the loss due to fraud, and not the defendant's ability to pay, whose income is often low during prison terms. It also puts liens on all property that was looted from the S&L coffers, so the criminals cannot move or hide these assets. Lastly, the bill authorizes private citizens to pursue S&L criminals on behalf of the federal government. This Qui Tam "bounty hunter" provision can help to collect more court-ordered fines than overburdened federal prosecutors could alone.

We strongly urge you to pass H.R. 5538 and oppose all weakening amendments so the federal government can maximize its efforts to punish S&L criminals and limit thrift bailout costs to taxpayers.

Sincerely,

PATRICK WOODALL,
Research Associate.
SUSANNAH GOODMAN,
Policy Analyst.

IN MEMORY OF WORLD WAR II

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California [Mr. DORNAN] is recognized for 5 minutes.

Mr. DORNAN of California. Mr. Speaker, I just want to elaborate on what I said in a 1-minute speech at the end of the session to help the young people in our country, and also a lot of adults across our 50 States and our territories, from the beautiful island of Guam which has been thinking about its plight 50 years ago, the first American territory occupied in World War II, and its liberation at great cost of American life 3 years later in 1945, early 1945; but from Guam to Puerto Rico, the Virgin Islands and all the American States, I want to emphasize again this memorial period of World War II.

As we move from event to event, the 50th anniversary of Pearl Harbor, which I was fortunate enough to be at last December with President George Bush on the memorial that straddles the deck of the sunken U.S.S. *Arizona*, and then through the commemorative that no Members, I believe, or Senators were able to attend in Australia to commemorate the great Battle of the Coral Sea; before that, the fall of Bataan on April 9, 1942; the anniversary of the fall of Corregidor on May 6; and then the great memorial ceremony at Hawaii, again for the battle fought off the island of Midway. Midway is an island in that Hawaiian chain, the furthest inhabited island in that chain, way off in the northeast.

□ 1740

The battle at sea at Midway which came to its American victorious climax on June 4, 50 years ago where we sank all four of the major Japanese carriers, four of the six that had bombed so treacherously Pearl Harbor just some few months before.

We now come down to the 50th anniversary of everything that took place in mid- and late-1942. In the European Theater, this coming November, just 5 days after the Presidential election, will be the 50th anniversary of Operation Torch, the landing of American troops in Algiers and Morocco, beginning our physical assistance with manpower instead of just defense goods of the British attempt to keep Rommel's Afrika Corps from taking all of North Afrika, up to and including his goal of taking Cairo, and then linking up with the German Forces with their dances through Iraq where they had Luftwaffe squadrons to encircle the whole Middle East, and eventually reach the Soviet oilfields at Baku on the Caspian. And I hope, with a little luck, that I will get to be there on the North Africa coast in Morocco and Algiers to celebate that 50th anniversary of the fight back in North Africa.

But I wanted to emphasize again the battle that began on August 7, 1942, 50 years ago last Friday, and that raged longer than any conflict in all American history, and that is the battle of Guadalcanal. Most people innocently mispronounce it and leave out that extra "1" in there. Guadalcanal. I had the opportunity with the gentleman from New York [Mr. SOLARZ], on the

majority side to visit the battlefield 3 years ago. We walked Bloody Ridge, walked the now-deserted Henderson Field, looked at the old broken-down tower that was put up later in the war, looked at where the foundations were for the operations hut that was called a pagoda, that was bombed regularly, every day, sometimes two or three times a day for months.

But from August 7, 1942 to February 9 when the last Japanese troops were unfortunately spirited off the island at Cape Esperance, or Submarine Point, that 6-month battle saw more or as much hand-to-hand combat as any struggle during the entire Second World War for Americans.

In reading each night the diaries in six of the wonderful books published on this battle, reading about young marines, enlisted men, 17, 18, 19 years of age who thought in the end they might lose, reading about what they lovingly called the Cactus Air Force, which sometimes was down to 9, 10, or only 11 planes holding off the might of the Japanese naval air fleet forces coming out of their harbor that they had captured months before at Rabaul, the island of New Georgia where they flew in seaplanes and Betty Bombers from. We lost more American capital ships in a naval conflict 50 years ago on August 9 in the Battle of Savo Island, a small island off the northwest tip of Guadalcanal. That naval battle indicated to the marines on shore, 17,000 of them in a small area, that they probably were going to be overrun in the next few days.

Admiral Yamamoto was running this operation himself, and he kept calling his army forces on the island, deep inside the jungle that he was resupplying the several hundred troops every night, because they owned the seas at night with the destroyer transports, and the landing barges coming down from northern islands in that Solomon chain, coming down the slot made famous by the accident where President-to-be John F. Kennedy's PT boat 109 was cut in half by a Japanese destroyer later. These young marines thought that they probably were going to lose a larger battle than Bataan, and yet they held out, with meager rations at first, and fought, and fought month after month until the battle tide began to turn.

The Japanese experienced fighter pilots who had 6, 7 months combat, some more than that from the Chinese occupation and the invasion campaign of the imperial warloads that was already 5 or 6 years old, our young fighter pilots flying in inferior Grumman, Long Island, NY-built F-4F Wildcat fighters, slower and less maneuverable than the famous Japanese Zero fighter, these young Americans began to turn the tide.

One case sticks in my mind, a young American named Robert Hansen. He shot down 5 airplanes, then 10, then 15, then 20, and then 25. He became a quadruple ace in less than 30 days, and then lost his life in aerial combat. And his parents were informed that your son has given his life for his country, is a quadruple ace, and a posthumous holder of the Medal of Honor. All of this was told to them at once.

We had other great aces like a constituent of mine, Captain Walsh, Kenneth Walsh, Ed Marion, and a great young marine fighter pilot, and of course the later Governor of South Dakota, Medal of Honor winner, Joe Foss, who was the first ace that I began to track in that war when I was only 9 years of age.

There was a Hollywood movie made, and it fired up America. That and another film called Wake Island, and then "30 Seconds Over Tokyo" began to let us know that we could win that war.

In closing, Mr. Speaker, I just want to say that during this break I hope some of my colleagues read up on that great battle, 6-month battle of 50 years ago, Guadalcanal.

Mr. Speaker, I include for the RECORD from the Navy Times a short account of that hard-fought victory, as follows:

GUADALCANAL: A HARD-FOUGHT VICTORY

(By Mark D. Faram)

WASHINGTON.—On Aug. 7, 1942, the Marines hit the beach at Guadalcanal.

The invasion marked the first time American ground forces took the offensive against the Japanese in World War II. Six months and 7,100 American lives later, the U.S. was victorious. The cost to Japan was high: 30,343 troops died, mostly to disease and starvation—only 20 percent were killed in combat.

Second Lt. Herbert Christian Merillat, then a 27-year-old public affairs officer, was with the 1st Marine Division when they landed. His eyewitness report, which was released by the Navy beginning on Aug. 30, 1942, was one of the first accounts of the war read by Americans back home.

THE LANDING: AUG. 7-8

Though there was no enemy resistance, the Marines were on edge when they landed Aug. 7. The 2,200 Japanese on the island fled to the mountains that dominate the middle of Guadalcanal. On Aug. 8, Merillat wrote in his diary, "There was rifle firing all night as Marines shot at each other, shadows, cows and coconuts, but I haven't yet heard of any skirmish with Japs."

Maj. Gen. Alexander Vandegrift, the division commander, told Merillat "I'm beginning to doubt whether there's a Jap on the whole dammed island."

But 20 miles over the water on the islands of Tulagi and Gavutu, the situation was different.

Gavutu was a seaplane base for Japan and Tulagi was a support base. American air and sea attacks destroyed all their aircraft on Aug. 7. But Japanese troops were dug in on the islands—and most would commit suicide rather than suffer the disgrace of capture.

It took three days to secure Tulagi and Gavutu at a cost of 122 American lives. The Japanese lost 800 soldiers.

On Guadalcanal, the Japanese had been building an airfield. By nightfall on the Aug. 8 the Marines had taken control of the airfield and began construction to complete it.

SAVO ISLAND: AUG. 8-9

"I will never forget last night," Merillat wrote in his diary. He described watching from shore the naval battle of Savo Island. It wasn't until later that the full news was known: The Navy suffered its worst defeat in history. Six ships were lost and 1,077 sailors and Marines were killed.

The Japanese did not take advantage of the victory. Afraid of greater losses, the U.S. Navy withdrew all its ships the next day. The Marines on the island were all alone.

COUNTERATTACK: AUG. 21

It took weeks for Japan to launch its counterattack.

With temporary command of the seas, the Japanese landed 900 troops at Taivu under the command of Col. Kiyoano Ichiki.

It took three days to move into position and attack the Marines from the east at the Tenaru River. But the Japanese were quickly turned back and wiped out. Col. Ichiki committed hara-kiri.

Merillat visited the battlefield the next day. "Jap bodies—torn, crushed, burned—lay near the mouth of the Tenaru. They had been neatly enveloped and didn't have a chance to escape," he wrote.

As the Marines dug in, the first combat aircraft landed at Henderson Field—they now had air support.

Meanwhile, Japan was landing reinforcements at night at Taivu to the East. On Sept. 7, a Marine amphibious raid at Taivu destroyed much of Japan's supplies and equipment and gathered intelligence information of a pending attack.

BLOODY RIDGE

"There's something in the air tonight," Merillat wrote on Sept. 10. "Several thousand Japs were spotted by native scouts 6 or 8 miles east of here. They may attack tonight."

He was off by two days.

On Sept. 12, Gen. Kiyotaki Kawaguchi attacked the Marines from the South, trying to recapture Henderson Field.

The night attack came along the top of the ridge. Though they knew it was coming, the Marines struggled. For two nights, the Japanese mounted attack after attack on the ridge. One attack did break through the lines, but the success did not last long.

Kawaguchi's army lost 600 lives at Bloody Ridge. He had brought only enough food for a couple of days, hoping to live off captured American supplies. Exhausted and hungry, his troops withdrew.

By Sept. 27, Vandegrift had 23,000 troops on the island. The battle now became on of attrition. the army that could resupply the fastest would win.

FINAL VICTORY

The waiting between actions took its toll. On Oct. 13 and 15, the Japanese shelled Henderson Field. "It was one of the worst times on the island," Merillat later wrote. "We were lightly dug in and the bombardment really shook everyone up.

Japanese Gen. Harukichi Hyakutake moved his 17th Army to Guadalcanal and attacked American positions on Oct. 24 with tanks and infantry across the Matanikau River.

On Oct. 25, a full 24 hours of fighting pushed the Japanese back across the river A day later, the Japanese again attacked Henderson Field from the South over Bloody Ridge. Again, they were turned back.

Japan was planning an offensive for mid-January and throughout October attempted to reinforce their troops.

On Nov. 12 and 13, the Americans lost the first battle of Guadalcanal. The second bat-

tle the next two days saw the Japanese bombard the Marines again. "Compared to the performance of a month ago, it was a half-hearted effort," Merillat wrote in his diary.

American planes destroyed a large convoy of Japanese troops and supply ships bound for Guadalcanal on the morning of the 14th. This was the last major attempt by the Japanese to reinforce the island.

The Japanese on the island were starving. Merillat's diary entry from Nov. 15 tells it all. "We get daily evidence that the Jap forces are badly demoralized: Living in the jungle on short rations; decimated several times over during their assaults on us; subjected to day-long air attacks; they must be in pretty bad shape."

Captured enemy diaries told of uncertainty and despair. "Where are our friendly aircraft?" wrote a Japanese soldier. "Where is the might of the Imperial Navy? Have they forgotten us?"

Merillat noted that these were familiar words. Four months earlier, after the defeat of Savo Island, the U.S. Navy had sped off leaving the Marines with no air cover or supplies.

U.S. ARMY

Some Army units started arriving in October. In December, Vandegrift's tired and diseased 1st Marine Division was relieved by the U.S. XIV Corps. This consisted of the 2nd, 23rd and 25th Army divisions, commanded by Gen. Alexander Patch.

Patch's offensives led the Japanese to order an evacuation of the island. As the Americans closed in on Cape Esperance, the Japanese were loading their troops onto destroyers. In the end, the Japanese evacuated around 11,000 men.

COAST GUARD ASSIST

Of the 23 transports and destroyer transports in Task Force Tare, which landed the Marines at Guadalcanal, all but four had Coast Guardsmen aboard. The Coast Guard also helped evacuate Marines amid intense enemy attack. On Sept. 27, 1942, Signalman First Class Douglas A. Munro was awarded the Congressional Medal of Honor (posthumously) for his work while evacuating Marines. Munro was the only guardsman in World War II to win the medal.

AFTERMATH

Vandegrift went on to become the commandant of the Marine Corps. He retired in 1947 and died in 1972. Merillat went on to serve at Okinawa and has written two books on Guadalcanal. He lives in Washington, D.C.

Two ceremonies are being planned to commemorate the victory. The 1st Marine Division reunion had a wreath-laying ceremony at the Iwo Jima Memorial on Aug. 7 and a parade was to be held later that evening in Washington.

And on Guadalcanal, many veterans are gathering to dedicate a memorial.

WHAT CONGRESS AND THE PRESIDENT CAN DO TO ALLEVIATE POVERTY IN AMERICA

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Kentucky [Mr. MAZZOLI] is recognized for 5 minutes.

Mr. MAZZOLI. Mr. Speaker, before I begin my remarks I would like to wish all of my colleagues a very happy summer. We are ending our work at the end of today for the next few weeks to reassemble here after Labor Day to begin what will be a very hectic last windup for the 102d Congress. So I hope all my colleagues have a very restful period for the next few weeks.

Mr. Speaker, normally I take the well to extol the beauties and the benefits and the outstanding accomplishments of my hometown, the city of Louisville, KY.

And I remain as proud of that city as any person is proud of his or her hometown. But the data released today by the children's defense fund based on 1989 figures as well as the decade of the 1980's obviously illustrates a disturbing side of my hometown and all of the towns, not just the large cities of America, but the small ones as well, and not just urban areas like mine, but rural and suburban areas as well. But the data released by the CDF today indicates that poverty in the city of Louisville is the 24th highest among the 200 largest cities in America. In 1989 that particular figure was 35.4 percent.

Louisville is the 18th worst in the percentage of poverty among children under 6, hovering around 40 percent. And, the poverty figures cited by CDF translates into an income of $13,000 per year for a family of four.

Probably most startling and most dismaying is that roughly 56 percent of the black children in our community live in poverty. Overall national rates of poverty in the past 10 years in the 100 largest cities of America has gone from 24.8 percent to 28 percent.

□ 1750

Statistics can get a little bit numbing, but I think those few illustrate that the problem of poverty in all cities of America is growing, not lessening.

So what should we do? Bewail our fate, moan, and groan, wring our hands and do nothing?

Well, obviously, that is not an adequate response. We have to do something. So I would make some respectful suggestions to our body, the Congress of this country, as well as to the Chief Executive of this Nation, the President, of things that can be done, actions that can be taken that would help to alleviate this problem.

I hope that the President will sign the bill which this body passed this week, the Family Preservation and Childhood Hunger Act, the last part of it named after our former colleague, now deceased, Mickey Leland of Houston, TX. This would do two things mainly: Keep American families intact and change the food stamp and nutrition laws to make the delivery of nutrition more efficient to our young children. This would help to overcome the one of many problems of poverty.

The President could sign the Child Support Enforcement Act, which requires parents against whom a court order has been levied for child support, to make those payments and not to skip town.

The President vetoed recently, and has threatened to veto again, the Family and Medical Leave Act which gives a recognition to the reality of the American workplace: more women are working, and more women with children are working. This bill would give them a better opportunity to earn a living and then rise out of poverty and take with them their children.

We could fully fund the Head Start Program, which is one of the few programs that really always earns kudos for its accomplishments.

We could fully fund the WIC Program, Women, Infants, and Children Nutrition Program, and get the children off to a fast start nutritionally, and they have got a better chance to learn and, therefore, later a better chance to earn a living.

We began the process with the passage of the act for better children, the ABC bill, 2 years ago, to give us better opportunity for day care to once again free women and working couples to work and raise themselves up economically.

Mr. Speaker, certainly we have to create jobs. The Job Training Partnership Act, which has a youth training component, was adopted by this Congress. That should be fully funded.

There is a public works program under the bill that we passed last year for transportation programs, the so-called infrastructure. That should be fully funded and implemented.

Mr. Speaker, just today the President announced completion of the treaty, what we call the North American Free-Trade Agreement, the treaty with Canada and Mexico.

We certainly look forward to the idea of free trade in North America. But it is disconcerting to note the cover story in the current Fortune magazine which suggests that many of the jobs being created in America are the low-pay, low-skill, low-benefit jobs which really do not allow a person to work his or her way out of poverty. These low-wage jobs have contributed to a new trend in America, a group of citizens who can be described as the working poor.

So let me sum up, Mr. Speaker, by saying that while this information from the children's defense fund is dismaying, it is not an unalloyed torment. There are certain glimmerings of hope. Maybe this will focus our attention on legislative action that can be taken to help people help themselves, to help raise themselves out of poverty with governmental assistance to help get this whole process started.

Mr. Speaker, in the last analysis, we have few things we can do of more meaning to the young children of America who are most caught in this poverty trap than to give them and their parents a chance to have a better tomorrow. That is what this Congress and this country should devote its energies and will power and spiritual strength to for the next several years.

THE TRADE WORKER ADJUSTMENT ASSISTANCE ACT OF 1992

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Ohio, [Mr. PEASE], is recognized for 5 minutes.

Mr. PEASE. Mr. Speaker, I would like to announce my introduction of the Trade Worker Adjustment Assistance Act of 1992. This bill would amend the Trade Adjustment Assistance [TAA] Program, which is mandated under section II of the Trade Act of 1974. By amending this existing program, my bill would engender a more comprehensive and effective plan for assisting workers who are dislocated from their jobs or threatened with dislocation because of trade or the movement of capital investment abroad.

What, one might ask, prompted my decision to design this revised program for adjusting dislocated workers? Well, where do I start.

First, the Bush administration has completed negotiations on a North American Free Trade Agreement [NAFTA] deal with the Mexican and Canadian Governments. Apropos of this agreement, recall that Mr. Bush, in his May 1, 1991 action plan letter to Chairmen ROSTENKOWSKI and BENTSEN, made a commitment to an adequate adjustment assistance program for workers dislocated by the NAFTA.

Furthermore, just this morning, in announcing completion of the NAFTA talks, the President stated, "In a changing world, we must give our workers the education and skills they need to compete, and assistance and training to find good jobs." The bill I am introducing today takes President Bush at his word. It provides a blueprint for worker adjustment assistance.

Second, the Ways and Means Trade Subcommittee held a hearing just about 1 year ago on the efficacy of existing, federally mandated worker adjustment assistance programs in the United States. These include TAA and the programs authorized in title III of the Job Training Partnership Act [JTPA].

At this hearing, members heard testimony from those who administer these programs at the State level. Witness after witness identified a number of inadequacies in both the TAA and JTPA programs. Witnesses also outlined the specific aspects of these programs that had proven effective in practice.

In digesting the testimony at this hearing, it became apparent to me that there was a need for a new animal in the world of trade adjustment assistance policy; that is, for some sort of a hybrid, which could combine the best elements of existing programs and omit those aspects of TAA and JTPA that has proven problematic or unworkable in practice.

In creating my program, I have done just this. I have used the soundest aspects of TAA as the basis for my program and incorporated the best elements of JTPA programs as well. Additionally, I have borrowed heavily from other countries' programs for adjusting unemployed workers. Specifically, I have utilized a great deal from the German model on worker adjustment assistance, since Germany has demonstrated an uncanny knack for maintaining a highly and engaged work force.

Third in my list of reasons for creating a new worker adjustment assistance program is my strong belief that the U.S. Government has never done enough in the way of adjustment assistance for American workers. I am speaking of the lack of adequate policy means for helping workers who are unemployed and who desperately need to develop the skills and qualifications that are key to occupational longevity, that is, the ability to keep a job or to get another, if one loses one's job. Experts note that the United States provides the lowest worker adjustment assistance benefits package for the shortest period among the major industrialized countries.

Public expenditures on unemployment insurance in the United States are approximately one-third of those in the United Kingdom and one-quarter of those in Canada, France, and Germany. In the United States, Federal Government expenditures for training amount to about one-third of 1 percent of gross domestic product and are significantly smaller than expenditures in Canada, France, Germany, and the United Kingdom. We allocate approximately $1,800 per participant on training for unemployed workers. This is one-fourth of what Germany spends.

In sum, let me say that the Trade Worker Adjustment Assistance Act of 1992, if signed into law, would respond to the tremendous need for policy reform in the area of trade worker adjustment assistance. The impetus for such reform at this time can be described as threefold. First, there is the timing of the NAFTA; second, the Ways and Means Trade Subcommittee's public and systematic analysis of current programs' weaknesses; and finally, the gnawing knowledge that the American work force has become increasingly ill-prepared for competition with labor in other countries, against which the United States competes for global market share.

Having described why I drafted the Trade Worker Adjustment Assistance Act, let me now outline the substance of the program this bill would create.

First, I will focus on eligibility. My program would offer benefits to workers who are separated from their employment or are threatened with separation as a result of competing imports; and the movement of plants abroad. Those familiar with the TAA eligibility requirements will note the addition of this second criterion. With agreements like the NAFTA, the majority of the negative employment effects will come from investment shifts. I therefore feel it necessary to cover not only workers who lose their jobs because of imports, as does the TAA Program, but also those who are dislocated as a result of plant movement abroad.

In addition to encompassing workers in primarily affected enterprises, my program would render eligible workers in supplier plants, that is, in cases in which the main plant and therefore the supplier plant are adversely affected by imports or capital investment movement out of the country. In other words, the so-called secondarily affected workers would be included in the pool of workers eligible for my program.

Second, I will focus on the benefits workers would receive. The Trade Worker Adjustment Assistance Act would provide generous levels of income support as well as training and job search assistance for a maximum duration of 156 weeks, or 3 years.

Income support levels would be based on the dislocated worker's previous pay. The maximum level would be 68 percent before the inclusion of part-time wages and 85 percent with the inclusion of part-time wages. Duration of income supports would depend on the worker's previous employment history up to the maximum of 3 years.

Training opportunities would include technical, vocational, undergraduate, graduate, professional, and postgraduate programs.

For the worker who loses his or her job and becomes reemployed in a lower-paying full-time position, my program would provide a wage supplement. This supplement would bring the beneficiary worker's income up to 85 percent of previous wage for a maximum, again, of 3 years.

Finally, my program would allow for job search and relocation allowances to offset out-of-pocket expenses incurred by workers engaged in the job search or relocation processes.

In closing, let me reiterate that now is the time for reform of our trade worker adjustment assistance regime. The world is becoming more competitive each day, and we cannot afford to squander what could be our most valuable resource in the fight for global commercial parity. This resource? Workers. The men and women of Ohio, Michigan, California, Florida, Washington, and Connecticut—of the Midwest, the West, the Southeast, the Pacific Northwest, and the Northeast. Men and women who today have little to do but await the arrival of an unemployment check. We need to give these good and productive people something more to look forward to each day. We need to give them a future. My bill holds the promise of this future.

Mr. Speaker, what follows is a detailed outline of my legislation:

FACTSHEET, TRADE WORKER ADJUSTMENT ASSISTANCE ACT OF 1992

ABSTRACT

This bill would amend the Trade Adjustment Assistance program, which is mandated under Title II of the Trade Act of 1974. If signed into law, the Trade Worker Adjustment Assistance Act would create a more comprehensive and effective program for assisting workers who are separated or threatened with separation from employment because of trade or because of the movement of capital investment abroad.

PROGRAM DESCRIPTION

Who is eligible?

Workers who have been separated or threatened with separation because of competing imports.

Workers who have been separated or threatened with separation because of relocation of production facilities abroad.

Workers in supplier plants who have been separated or threatened with separation because of competing imports or relocation of production facilities abroad, i.e., secondarily affected workers.

NOTE.—Workers who meet any one of the above three criteria must also have been employed for at least 52 weeks out of the 156 prior to separation from employment with at least ten weeks of this 52 falling within the 52 just prior to separation.

Income support

What sort of benefits does the eligible worker receive?

Provided to cover the workers' personal and household living expenses during the job search and/or training period.

Level based on percentage of previous wage and tied to whether and when the worker enters into training; if worker enters training during the first 26 weeks immediately following separation, level set at 68 percent of previous wage; if worker does not enter training during the first 26 weeks immediately following separation, level set at 68 percent for weeks 1–52, 58 percent of weeks 53–104, and 48 percent for weeks 105–156.

When worker is receiving unemployment (UI) benefits, Income Support payment equals the applicable percentage of previous wage minus UI.

When worker is no longer receiving unemployment (UI) benefits, Income Support payment equals the entire applicable percentage of previous wage.

The maximum previous wage against which applicable percentages could be applied is $30,000.

Part-time wages do not affect Income Support level unless such wages result in the worker's income exceeding 75 percent of previous wage if he or she is not in training or 85 percent if he or she is in training.

Benefit duration is minimum of 39 weeks and maximum of 156 weeks based on worker's employment history, but may be extended by 26 weeks if worker applies for training within the 26 weeks immediately following separation and needs extra benefits to complete training program.

Available to workers not employed and employed part time.

Not available to workers employed full time, workers receiving Wage Supplement, or workers engaged in on-the-job training.

Wage supplement

Provided to supplement the income of the worker who has been reemployed on a full-time basis in a job paying wages that are lower than his or her previous wage.

Wage Supplement payment equals 85 percent of worker's previous wage minus the worker's current full-time wage.

The maximum previous wage against which applicable percentages could be applied is $30,000.

Benefit duration is maximum of 156 weeks.

Not available to workers employed part time or workers receiving Income Support.

Training

Provided to assist the worker in becoming qualified for a position requiring technical or professional skills, which he or she does not have at the time of separation and which will enable him or her to procure suitable employment.

Allowed training programs include technical, vocational, undergraduate, graduate, professional, and post-graduate programs.

On-the-job and remedial training programs also permitted.

Benefit duration is maximum of 156 weeks, but may be extended 26 weeks if worker applies for training within the 26 weeks immediately following separation and needs extra benefits to complete training program.

Available to workers not employed, employed part time, and employed full time.

Available to workers receiving Income Support or Wage Supplement.

Employment services

Provided to help the worker secure full- or part-time suitable employment.

Include counseling, testing, placement, and support services.

Benefit duration is maximum of 156 weeks.

Available to workers not employed or underemployed.

Available to workers receiving Income Support.

Relocation allowances

Provided to reimburse the worker for expenses incurred during relocation for purposes of securing suitable employment.

Relocation Allowances equal 90 percent of reasonable and necessary relocation expenses and a lump-sum payment equal to two-weeks worth of previous pay.

Maximum of $4,000, including both the 90 percent of expenses and the lump-sum payment.

No particular benefit duration.

Job search allowances

Provided to reimburse the worker for expenses incurred during his or her job search.

Job Search Allowances equal 90 percent of necessary job search expenses.

Maximum of $800.

No particular benefit duration.

What is the cost of this program?

CBO cost estimate pending.

NOTE.—Program benefits are an entitlement for workers.

How is this program financed?

Not specified in bill, but Congressman Pease has in mind the following: Border adjustment fee on goods traded among the three signatories to the NAFTA.

NOTE.—Implementation of this fee will require negotiations among the U.S., Canadian, and Mexican governments.

SPOKANE: CITY OF STARS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Washington [Mr. FOLEY] is recognized for 60 minutes.

Mr. FOLEY. Mr. Speaker, three of America's most prominent athletes grew up and first honed their playing skills in my native city of Spokane, WA. All three were featured in an article by Steve Rushin in the recent July 27, 1992 Sports Illustrated which I commend to the attention of my colleagues.

Mark Rypien, quarterback of the world champion Washington Redskins, John Stockton, all-pro guard of the Utah Jazz, and Ryne Sandberg, nine-time all-star second baseman of the Chicago Cubs, lived 5 miles apart in my hometown and graduated from high school within 4 years of each other.

Mark Rypien received his diploma from Shadle Park High School in 1981, John Stockton graduated from Gonzaga Prep in 1980, and Ryne Sandberg earned his diploma from North Central High School in 1978.

Sports trivia buffs would be interested to know that Mark Rypien and John Stockton played basketball against each other in high school.

Indeed, 14 years before America's sportswriters selected Mark Rypien as the most valuable player in the Super Bowl game last January, he was both a football and baseball MVP at Shadle Park High. Moreover, he was a two-time basketball MVP at the Washington State high school basketball finals held in the Seattle Coliseum.

I am especially pleased that these three sports superstars have maintained close ties to the city that nurtured them. Even today, John Stockton makes his home next door to the house he grew up in where he used to practice basketball in the driveway. Mark Rypien loves Spokane and returns frequently, regardless of whether he spent the previous season with the Redskins on injured reserve or was the MVP of the Super Bowl. Ryne Sandberg has similarly maintained ties to the city of Spokane.

The July 27 issue of Sports Illustrated features an article entitled "City of Stars" which describes the athletic development of these superstars and their links with my hometown.

CITY OF STARS

(By Steve Rushin)

If America were an American flag, then all of its stars would belong here, in the upper lefthand corner of the country. The state of Washington would be a field of blue, and the city of Spokane might aptly be described as star-spangled. Star-spangled Spokane.

Three boys, separated by four years and five miles, were raised to greatness in this city of 177,000 residents near the Idaho border. Three boys put Spokane on the map, metaphorically, late in the 20th century, much as the Northern Pacific Railroad did, for real, late in the 19th. Three boys, their lives intersecting like tracks in a railroad switching yard before parting—one to the East, one to the West, one to the nation's heartland.

The three boys are now three famous athletes. The three famous athletes raced to prominence from a staggered start, so now they find themselves three different distances into their careers, wearing three different shades of fame.

Five miles, four years, three boys. They are three stars shaken loose from the upper lefthand corner of the country. Shaken loose from Spokane, but never really shaken free. . . .

In northwest Spokane, darkness falls on a backyard barbecue. Whether the fall of darkness is defined as the sudden absence of light or the sudden absence of light beer, either

way it got dark in a hurry behind the Rypien house on North Moore Street.

So friends and relatives scatter from the lawn like pollen. But Mark Rypien, 29, remains in a lawn chair behind the house he grew up in, a maple tree no longer shading him from sunlight, but from starlight and porchlight instead. "The Big Fella," he says, finally, as the voices of family and friends fade into the house or into the night. "The Big Fella should have been here."

The Big Fella would have admired the new vinyl siding on the old house he bought in 1968, the house in which he and Terry raised their five children on the money he earned selling office equipment by day, the money she socked away working nights as a secretary at Holy Family Hospital. He seemed to fill that house all by himself, the Big Fella, even though he wasn't all that big, not nearly as big as Mark is now. But he was as strong as ammonia, and he wore a potbelly like a prizefighter wears a title belt.

"He could bring a house down," says Mark. "Life of the party. It's so much fun when the whole family gets together like this. But in some ways, it's the hardest time, too."

The Big Fella was broad, that's the word, with a chest that would have broadened further last Jan. 26. Why couldn't Bob Rypien have been one of the one billion? That's how many people watched as his oldest son, Mark, for two seasons the starting quarterback of the Washington Redskins, earned the Most Valuable Player award in Super Bowl XXVI. . . .

Five miles away, at 1226 North Hamilton Street, men have been setting them up and knocking them back since Prohibition was prohibited in 1933—ever since the Buffalo Market was swiftly converted into the Snappy Service Beer Parlor.

The Snappy became Joey's Tavern in 1947, and though Jack Stockton and Dan Crowley bought the place in '61 from the guy who had bought it from Joey, they waited 14 years before renaming the joint Jack & Dan's. Why mess with success? Business has always been good, what with Gonzaga University a block away.

Business has always been good, but in the last five years, well, Jack & Dan's has been served a double. So Jack, 64, is here at nine this morning, smack in the middle of his summer vacation, to check on construction of the beer garden being added out back. No problem, really, as Jack lives 150 yards from the bar's back door, in the white house with the redbrick accents and the basketball hoop in the driveway. There, on North Superior, he and Clementine provided for their four children, provided for them with the Budweiser-soaked dollars that crossed the bar.

"The beer garden is for the Olympics," says Jack, straining to be heard as a jackhammer solos outside. "It's going to be crazy here during the Olympics."

Setting them up and knocking them back? Why, it's the other way around. Jack's partners will be knocking them back in Spokane, while Jack's second son, John, is setting them up in Barcelona. On loans from the Utah Jazz, for whom he has started for the past five seasons, 30-year-old John Stockton is a point guard on his nation's Dream Team, one of the dozen or so best basketball players in the world. . . . Make a right out of Jack & Dan's, go seven blocks north on Hamilton and hang a left on West Augusta, and it is just down the road on your left: the old two-story house with the barn-style roof and expansive front porch, the house where Derwent and Elizabeth Sandberg lived with their four children. Derwent, that was his name, and now you know why everybody called him Sandy.

Sandy Sandberg was a mortician who left his work behind at the Hazen & Jaeger Funeral Home on North Monroe, making no effort to pass that most familial of occupations along to his sons. "He pretty much kept that to himself," says the youngest of his three boys.

When Elizabeth was nine months pregnant with that child in September 1959, she and Sandy could settle only on a name for a girl. But the couple was watching a New York Yankee game on television one night, and when they heard the announcer roll out the name of the right-handed relief pitcher walking in from the bullpen, well. . . .

"We looked at each other and knew that would be the name if the baby was a boy," says Elizabeth. And why not? The last time she had given birth, five years earlier in Philadelphia, the boy was named Del, for Phillie slugger Del Ennis. So now Del would have a baby brother, a baby brother named for Ryne Duren.

"My father loved baseball," explains Ryne Dee Sandberg, now 32. "He was a fan of all sports. We never had a lot of money, but he always had enough to buy me a glove and spikes. He has had a lot to do with this."

Funny, isn't it? Now they're free, the gloves and spikes: now, after he signed a contract for $7.1 million annually in this, his 10th year playing second base for the Chicago Cubs; now, when Ryne Sandberg finds himself somewhere between boyhood and a bronze bust in the Baseball Hall of Fame. . . .

They are the sons of their fathers and mothers, to be sure, but they are also the sons of Spokane (spo-CAN, please, so as not to rhyme with *cocaine*). If they are the city's claim to fame, then the city has staked a claim *on* their fame, as well. When you get right down to it, Spokane is a city of 177,000 Fred MacMurrays, each one boasting of My Three Sons.

"I think we have three of the classiest athletes around in you, John Stockton and Ryne Sandberg," says a middle-aged man at the Spokane Youth Sports Bingo Hall, where Rypien is signing autographs at a card show. "Could you sign that *To Brad, from Mark*?"

The city has 13 high schools, and Sandberg graduated from one of them (North Central, class of '78), Stockton from another (Gonzaga Prep., class of '80) and Rypien from a third (Shadle Park, class of '81). So practically everyone in town knows a famous athlete, or at least knows someone who knows one.

Take this guy, for instance, the guy at the head of the line of autograph seekers, this bald guy who is no taller than a tackling dummy. He is describing to Mark—who goes 6'4" and 235 pounds—the time when he sacked Rypien in a high school football game, just decked him over at Joe Albi Stadium on the northwest side. Must've been Mark's senior season at Shadle. Remember that? "Remember!" says Mark, wincing as he vividly recalls a sack that never happened. "My ribs are *still* hurting from that one. . . ."

Of the three boys, Rypien is the youngest and the newest to fame. He cannot yet say no to anyone asking for anything. Can I have an autograph? Would you swing by the hospital? Could you say a few words to the school kids? Remember that time I sacked your sorry butt? To everyone, he says, "You bet."

He signs 1,200 autographs in 10 hours over two days at the card show, lining his pockets with nothing but ink stains. He is, bless him, not getting paid for this. Rypien's brothers. Tim, 28, and David, 24, more or less volunteered Mark for the event, and now they fear for his future as a quarterback. "I hope he doesn't get carpal tunnel syndrome," says Tim, eyeing the long, slow-moving line. What is Mark *doing* up there? He's *chatting* with people? Posing for *Polaroids*? Asking Mrs. Riggs how her daughters are doing? He'll never get through this. . . .

"He loves Spokane," says Tim. "He loves coming back here, whether he had a bad year or he won the Super Bowl. There's more to life for Mark than making money and being a jerk to people."

Fame still has that new-car smell to him. Though Rypien was drafted by the Redskins out of Washington State University in 1986, he spent his first two seasons in D.C. on injured reserve, missed much of 1988 with a shoulder injury and sat out part of 1990 with a sprained left knee.

Before he was a Super Bowl MVP, Mark Rypien was a two-time football team MVP at Shadle, a baseball team MVP there, a two-time basketball team MVP and MVP of the state high school basketball finals in Seattle. Lord knows he can spell MVP by now, but whenever someone asks Rypien to affix the letters to his signature on his 8 x 10 Redskins glossy, he politely refuses. "I'll sign it *World Champions*," he says, invariably winning over his marker-wielding stalker. "How's that? There you go. Now let that dry, so it doesn't smear. . . ."

World Champions. It's really only in the last year or two that people have been following him down the cereal aisle at the Safeway near his home in Reston, VA.—where he lives with his wife and two daughters—to see whether Mark Rypien goes for the Cap'n Crunch or the Count Chocula. And it has only been since January, when he threw for 292 yards and two touchdowns in the Redskins' 37–24 dismantling of Buffalo in the Super Bowl, only since he informed the world of his plans to vacation in Orlando, only since he chatted up David Letterman in New York . . . only since then that he can no longer go anywhere unrecognized.

Mark was dancing with his wife, Annette, at a nightclub in Daytona Beach this spring when a man approached him on the dance floor and asked for his autograph. Rypien signed, simply relieved that the guy didn't want to cut in and cut the rug with him.

Earlier that evening Rypien had abandoned the sanctuary of his table for the uncertainty of the men's room. Bouncers became alarmed when they noticed countless patrons entering the john, but none exiting. What evil lurked inside there? It was Rypien, sitting on a sink signing autographs for everyone.

It's the same tune in Spokane, only in a lower key. "They see his face everywhere around here," says Tim. "So maybe people don't get as excited." Tim was an athlete at Shadle too, a catcher who made it to Triple A in the Toronto Blue Jay organization before becoming the baseball coach at North Central High a year ago. He happens to mention that his Indians play on Ryne Sandberg Field. . . .

Ryne Sandberg is the oldest of the three, the oldest and best-known and richest of the three boys, the three boys in four years. Think of it. In the time it takes a president to break his promises, Spokane was buttoning up these three little beauties and sending them out into the world.

"In our generation in Spokane," says Jerry Cain, 28, Rypien's best buddy since junior

high, "Ryne Sandberg was the first real three-sport star in high school: All-Everything in baseball, basketball and football, signed a letter of intent to play quarterback at Washington State, then got drafted by the Phillies.

"I had no ambition to go to college and study," says Sandberg, standing outside the visitors' dugout at Shea Stadium in New York City and forthrightly explaining why he did not end up as a senior quarterback at WSU while a freshman named Mark Rypien waited his turn from the bench. "When the Phillies made an offer, it made my decision easier. I wanted to get into the minor leagues young, work at the game, learn how it worked, and *maybe*, someday, make an appearance in the majors."

Maybe? Someday? *C'mon.*

"No, I never dreamed of this," says Sandberg. "Never. Not at all. I'm a lucky guy."

He plays second base like Yo-Yo Ma plays cello. He is the only man ever to win nine Gold Gloves at that position. He has the highest fielding percentage in major league history. He once played in 123 consecutive games without an error. But he still carries a trace of the boy from Spokane, the North Central shortstop who made four errors against Western Valley the day scout Bill Harper told Sandberg that Philadelphia would draft him.

He has hit 40 home runs in a season, stolen 50 bases in another, and no one else in major league history can say that. He has hit .288 for his career. He has played in nine All-Star Games. He was the leading vote-getter in '91. He has won one National League MVP award. There is growing sentiment that he is the best second baseman ever to play the game. In March '92 he signed a contract, the richest in the game's history, that will pay him $7.1 million a year for the next four seasons. But he still carries just a hint of the boy who, when told that he might get a signing bonus of $50,000, turned to his high school coach with bug eyes and said, "Oh . . . really?"

To this day, that is about as long as a Sandberg sound bite gets. He was All-Everything in high school, All-Everything but All-Interview, and he still has nothing outrageous to say when he has anything to say at all. And when did that become a character flaw? "Most writers, for the first five or six years of his career, couldn't accept that Ryne is that way," says his mother, who now lives in Brewster, Wash., about 135 miles from Spokane. "I am proud that he has been a very good role model for the rest of the country. He lives an exemplary and moral life. People looked for skeletons in his closet, but they couldn't find any."

No skeletons, but still they've prospected for fragments of bone. Yes, he posed for a promotional poster with Rypien two years ago in the letter jackets of their respective high schools. But hasn't he declined repeated invitations to be honored at the annual Spokane Writers and Broadcasters dinners? Sure, he returns to Spokane at least once a year. But doesn't he make his off-season home, with his wife and two children, in Phoenix? What are the superstar's responsibilities to the city that nurtured him? What are they, and where do they end?

"A couple of sportswriters in town have insinuated that Ryne forgot where he came from," says Sandberg's high school baseball coach, Kenny Eilmes. "But you know, us common people can't realize the pressure he is under. We only see the gravy side of it. We don't see that Ryne Sandberg got where he is by beginning at baseball's lowest possible classification, in Helena, Montana."

All of the zeroes at the end of Sandberg's contract were bound to stick to him like concentric rings on a target. But Eilmes is right. The boy worked at baseball as surely as the father worked at the mortuary, as surely as the mother worked as a nurse, as surely as the parents worked for glove money for this boy they named after a ballplayer.

Sandy Sandberg died in 1987. But he lived to see his son become a star. He would sometimes sit right there, in fact, and watch Ryne on WGN. Sandy Sandberg would sometimes sit right there and watch his son on that first TV above the bar at Jack & Dan's Tavern. . . . John Stockton used to play in the driveway like the post office used to deliver the mail. "In rain and snow," says his father, Jack. "Day and night."

"I remember driving by his house in high school," says Rypien. "Ten, 11 o'clock at night, and he was out on the driveway, dribbling a basketball."

He would play all afternoon, then meet his dad at Jack & Dan's. At dinnertime Dad would pedal John home on the handlebars of his bike. Bob Cousy was Jack's favorite player—"and my wife's, too"—but on the driveway John was always Gus Williams of the SuperSonics, driving a concrete lane at the Seattle Coliseum. His hands and feet were huge, but so were the frail kid's illusions. One night, when Seattle played the Jazz in an exhibition at the Spokane Coliseum, John got to be a ballboy for the Sonics. That, obviously, was as close as the kid was ever going to get to the NBA.

Even now, when people talk about Spokane high school basketball, they usually talk about another point guard and his dream senior season; the year Rypien was named MVP of the state championship in the Seattle Coliseum, when he set a tournament record for assists. In the final Shadle beat a team from the affluent Seattle suburb of Mercer Island, beat them on a still-disputed, last-second shot with a fouled-out Rypien on the bench. Shadle needed a police escort to get out of the building when the home crowd nearly rioted. Mercer had a championship trophy made. Mercer's coach counted the game as one of his 1,000 wins. "They still cry about it every year," says Rypien. "They can cry all they want. It's etched in stone that we're the state champions that year."

"It's been proven," says Jack Stockton, who sounds vaguely convincing. "Shadle won it fair and square."

Anyway, the point is this: It wasn't John Stockton of the Gonzaga Prep Bullpups who was on his way to the NBA a dozen years ago. It wasn't John Stockton, even though Rypien, a former point guard himself, seems to recall that Stockton once went for 42 against him in a Shadle-Gonzaga Prep showdown. "The only person in the world who thought John would play in the NBA was John," says Jack. "And that's the god's honest truth."

Stockton still holds a grade school record in Spokane for running the mile, a record he set in eighth grade at St. Aloysius. St. Aloysius, Gonzaga Prep, then Gonzaga University—the boy attended the same three schools that his father did. Bing Crosby, who also grew up in this neighborhood and also attended Gonzaga, stands in bronze on the college's campus, with a golf bag at his feet and what appears to be a cigarette butt in his mouth. (It is actually the remnant of a pipe, which is snapped off and stolen from Der Bingle's mouth monthly.) But if they ever erect a statue of John Stockton on these grounds, it will be in brass. They can melt down the actual John Stockton for raw material, for brass is what got him from boyhood to Barcelona.

"He takes losing personally," says Jeff Condill, 28, John's close friend, college teammate and co-owner of Jack & Dan's ever since he brought out Dan Crowley a year ago. "Whatever he plays, Ping-Pong, golf, lawn darts. He holds the Jazz record on the treadmill, and he wants to defend that title every year."

Still, John Stockton would most likely rather lose in lawn darts than be interviewed. We would have asked him to confirm that, but he was too busy playing Sam-I-am to our green eggs and ham. Talk to us? He would not, could not, in the bar. He would not, could not, in his car. He would not, could not, at the gym. We would not, could not, speak to him. Jack, Jeff, his agents at ProServ, the publicity department of the Jazz and the Washington National Guard could not prevail upon him, either.

Stockton has an aversion to making public appearances, on behalf of the Jazz or on behalf of Nike. He was supposed to appear in that poster with Rypien and Sandberg back in 1990, for a three-on-three basketball tournament, but he backed out of it when he thought organizers had lied to him about something or other. He never used to have ballboys pull his car around to the back of the Delta Center, where the Jazz play, but he does now, no longer willing to brave the parking lot.

And so what? It isn't as if the guy has gone completely Garbo: When he isn't spending summer days with his wife and three children at their cabin, an hour from Spokane on Priest Lake, he might be conducting his annual basketball camp for kids. He is close to just about anyone who has ever coached him, tighter than the insides of a Titleist with his family. He still sees people, for god's sake—it's sports-writers he could live through the summer without.

He wouldn't hold the NBA single-season record for assists if he weren't selfless, would he? What is Stockton doing while he isn't talking to us? He is helping an old friend, the Gonzaga trainer, build a house.

"He really is a people person," says Condill. "His family is his first priority. He became more private when he started a family. I think seven or eight years from now, he'll probably come back around the other way."

Most of Spokane knows where to find him anyway. It's no secret that Stockton makes his home next door to the one he grew up in. Sure, he has a house in Utah, too, but the reason he so loves Salt Lake City, says his father, is that it reminds him of Spokane: easygoing laid-back.

Nevertheless, when you are a civic bauble, you are always on display in a jeweler's glass case: Not long ago, in Spokane, Stockton was asked for his autograph at a funeral he was attending.

Always on display in a jeweler's glasscase. How long before you would tire of looking at life through the fingerprints and the fogged glass? Ryne Sandberg was last in Spokane for the burial of his oldest brother. Lane Sandberg was 42. He lived in the house on West Augusta Avenue in which he and Ryne and the rest of the children were raised. He died in that house on the 10th of February.

Elizabeth Sandberg sits at home, in her house in Brewster, speaking above the low notes of a piano being tuned in the next room. "Lane had a hell of a tough life, to tell you the truth," she says. "He had epilepsy since the day he was born. When I saw him

last Christmas, he was gray and stooped and tired. I thought then, There is death walking."

A month and a half later, Lane died on the floor next to his bed, during an epileptic seizure at eight o'clock in the morning. Sorry is not a word that comforts here, says his mother. But she certainly takes solace in her family. "I am proud of all of my children," she says. "I have a wonderful family."

Harry Caray doesn't shout their names, but her son Del teaches high school in Olympia, Wash., and her daughter, Maryl, works for a TV station in Seattle. And Elizabeth's son Ryne—she looks in on him nearly every day, watching almost every Cub game on the team's cable-TV superstation. The schedule is attached to the fridge.

She can see her reflection in the TV set. After all, it was Elizabeth who was the athlete in high school—Sandy played the tuba. She was from Vermont. He was from Minnesota. During World War II, Sandy had an Army buddy whose fiancée was a close friend of Elizabeth's. Staff Sergeant Derwent D. Sandberg wrote Elizabeth a letter. She wrote back; it was the patriotic thing to do. Two years later they were married. The Sandbergs settled in Spokane because a job was available there when Sandy finished mortuary school. They settled in the house that now stands a block and a half from a ball field that is named for their youngest son.

"I'm very pleased," says the boy's mother, "that the good Lord gave him talent."

Terry Rypien used to stand at the front door and watch her children enter Westview Elementary School directly across the street. From her living room she could see her children in their classrooms. From her couch she could watch them at recess. She went to work at the hospital each night when her husband came home, came home and filled the house with his presence.

Bob Rypien could fill the neighbors' houses, too, fill them with his headlights. Curfew was midnight for Mark and Tim on weekend nights during high school. When Mark was watching television on the wrong side of 12 at a girlfriend's house, Bob pulled his car in front of the girl's picture window and froze his son in the glare. Mark could only sit there on the couch, like road kill with a remote control in his hand.

"His word meant everything," says Mark. "You didn't blow it off."

To look at Mark and Tim and David now, it is impossible to imagine them sharing that one bedroom in the basement of this house. They shared everything, really, since there can be no secrets in such an arrangement. Tim was always in by 11:58 on weekends; Mark was the one who was late. "But you have to understand," says Mark, "Tim would come in with bloodstains all over him, having been in fights with his buddies all night. But he was in by curfew, so no problem. Me, I wouldn't be doing a darn thing but be out till 12:30, and my dad's about ready to kick my ass when I walk in the door. The seven worst words I ever heard were *I'll talk to you in the morning.* Now I'm supposed to sleep well?"

Terry and Bob were Canadians by birth. She grew up in British Columbia. He grew up in Alberta. When she was 16, Terry moved to Spokane with her mother. Bob's aunt and Terry's sister were friends. Terry and Bob met on a blind date. The family they raised together—Colleen, Mark, Tim, David and Shannon—remains as close as a twin-blade shave.

When they all gather in the backyard, as they have on this evening, Mark finds himself amid the fading laughter, lamenting that his father couldn't be here to turn the fun up a notch. Then, after a pause: "He is here," Mark says. "He's right there." Mark is leaning back, out from under the maple tree, fingering a star overhead. Star-spangled Spokane, indeed.

Long before the light had faded that evening, Mark had his picture taken in the backyard with a neighborhood boy who was wearing a Redskins jacket. Children call Terry on football Sundays. Is Mark there? She tells them Mark doesn't live here anymore, that he's in D.C. playing football today. On Monday the phone will ring again. *Is Mark there yet?*

The Rypiens stayed together in a convent in St. Paul during Super Bowl week. "I was just glad the Redskins made it to the Super Bowl," says Terry. "In my mind, I thought they probably weren't going to win. Buffalo had already been there. It was their turn." Well, as the press clippings that Terry keeps in an accordion folder will attest, the Redskins won, and won big. John Stockton left a congratulatory message for Mark at the Redskins' hotel in Minneapolis that night.

Mark spoke to Terry after the game. Four months before Mark played his first game for the Redskins, Bob Rypien died of a heart attack, in June 1988. "Don't worry, Mom," Mark now said. "I think Dad had the best seat in the house."

How could Mark know that? Terry Rypien was back home in Spokane by 10 o'clock Monday morning. The trees in her front yard were draped triumphantly in toilet paper. A banner was stretched across the front of the house: Home of Super Bowl XXVI MVP.

He is here. Dad had the best seat in the house.

How could Mark know that? It was three days before Terry first saw her son in the Disney commercial. You know the one. You know the song. *When you wish upon a star . . . makes no difference who you are . . . anything your heart desires . . . will come to you. . . .*

COMMUNICATION FROM CHAIRMAN OF SUBCOMMITTEE ON EMPLOYMENT AND HOUSING OF COMMITTEE ON GOVERNMENT OPERATIONS

The SPEAKER pro tempore (Mr. ENGEL) laid before the House the following communication from the Chairman of the Subcommittee on Employment and Housing of the Committee on Government Operations:

COMMITTEE ON GOVERNMENT OPERATIONS,
Washington, DC, August 12, 1992.

Hon. THOMAS S. FOLEY,
Speaker of the House, the Capitol

DEAR MR. SPEAKER: This is to notify you pursuant to Rule L(50) of the Rules of the House that the Subcommittee on Employment and Housing of the Committee on Government Operations has been served with a subpoena for documents relating to the Subcommittee's investigation of the U.S. Department of Housing and Urban Development, issued by the United States District Court for the District of Columbia.

After consultation with the General Counsel to the Clerk, I will make the determinations required by the Rule.

Sincerely,

TOM LANTOS,
Chairman.

LEGISLATION TO FACILITATE AIDS VACCINE RESEARCH AND CLINICAL TRIALS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California [Mr. STARK] is recognized for 60 minutes

Mr. STARK. Mr. Speaker, today I am introducing the AIDS Vaccine Development and Compensation Act of 1992. This legislation seeks to advance research and development of a vaccine for one of, if not the single most explosive health concern today. This legislation facilitates efforts to develop a vaccine that will provide protection from the continued scourge of the acquired immunodeficiency syndrome [AIDS] in this land and overseas.

The AIDS Vaccine Development and Compensation Act of 1992 is designed to gain control of the liability concerns associated with the development and distribution of an AIDS vaccine. Enactment of this legislation will increase protection for the researchers, research institutions, and manufacturers of an AIDS vaccine. To the extent there are negative consequences as a result of receiving an AIDS vaccine, this legislation will provide relief to the recipients of an AIDS vaccine.

LIMIT ON LIABILITY PROTECTION

Before I proceed any further, let me state clearly that this legislation modifies the liability of manufacturers, research institutes or researchers only in cases where there is FDA, NIH, or other Government review and approval of a particular AIDS vaccine trial or the administration of a particular AIDS vaccine. Furthermore, in no instances does this legislation provide cover for gross negligence or reckless, willful or wanton misconduct, or provide protection in instances where the manufacturer, research institute or researcher intentionally provided false information to an agency of the Government or failed to comply with research or vaccine administration guidelines.

AN EPIDEMIC WITH NO BOUNDARIES

The AIDS epidemic may be characterized as one compounding, decade-long tragedy. In the United States alone there are well over 1 million persons infected with the AIDS-causing virus. We have watched in horror as the prevention and treatment efforts have fallen short of stopping the spread of this disease and have provided far too little relief from its effects.

While we have all shuddered at the sights and statistics of young men stricken with AIDS during their most productive years, we have learned that HIV does not discriminate. While AIDS is often depicted as a homosexual disease, it in fact knows no bounds of color, gender, age, religion, or sexual orientation. In fact, the percentage of women infected doubles every 5 years. Worldwide, one half of the persons infected since January 1 of this year have been women.

If this were not enough, we are now seeing counted in the statistics the faces of the newest and most fragile members of our families. And pediatric AIDS cases are increasing far more rapidly than had been anticipated. Today, the number of pediatric AIDS cases is 33 percent greater than the pessimistic prediction made in 1987 by Surgeon General Koop for 1991. Children account for nearly

4,000 of the diagnosed AIDS cases in the United States. Four thousand. According to the Public Health Service, it is estimated that 1,500 babies were born infected with the HIV virus in 1991 alone.

These numbers lead us to wonder, "How much worse can things get?" As we all should be well aware by now, much worse. In the British medical journal Lancet, it was estimated that 5.7 million people will be infected with HIV in the United States by 1995. According to the U.S. Agency for Health Care Policy and Research, this year in the United States $10 billion will be expended for treatment of people infected by HIV. By mid-decade, this number is anticipated to jump to $15 billion annually, a 50 percent increase.

The AIDS epidemic also knows no geographic bounds. AIDS is truly a pandemic disease. It is almost overwhelming to note that while the situation in the United States is horrendous, HIV has infected six times as many people on the continent of Africa. No village, no inner-city block, no school yard, no matter if in a poor or rich neighborhood, has likely escaped the menace of this virus. At the risk of numbing us all, I cite the conservative projection of the World Health Organization that 40 million people will be infected with HIV by the year 2000. Using a different model, the Harvard University-based Global AIDS Policy Coalition has generated a number nearing three times this amount.

To conclude my description of this continuing tragedy, I must remind my colleagues of the sum devastation of this disease. Across the globe, the human immunodeficiency virus has claimed the lives of 2.5 million individuals. As of March 31, we had lost 226,281 men, women and children here in our own country.

IT IS TIME TO REMOVE THE BARRIERS

The human immunodeficiency virus appears to pose a medical challenge as tenacious as any to date. The response must be equal to this challenge. To the extent that any of our responses show promise, we must accelerate these efforts and ensure that any impediments encountered are removed. The approach I am advocating today attempts to do just that.

The AIDS Vaccine Development and Compensation Act of 1992 cuts through the barrier of liability to free researchers and manufacturers to move forward with their efforts. It ensures that those who suffer negative consequences from the receipt of an AIDS vaccine are properly compensated.

Simply put, this legislation clears the way for government, academic and private sector researchers to get-on with their work.

While we in the legislative branch may argue over the degree to which we can afford to respond to the AIDS epidemic, this legislation ensures that we do at least the minimum. We must remove the barriers to the current prevention efforts. While we may consider new initiatives to pursue, it would be tragic if we failed to eliminate the barriers to the work currently underway.

A PROVEN APPROACH

The approach taken in this legislation is not an untested one. Modeled after the National Childhood Vaccine Compensation Act, this legislation will draw from an approach with half a decade of success. While there are differences to be recognized, it is the similarities and the experiences with these similarities that allow us to move ahead with this approach having a reasonable degree of confidence.

The most significant difference between the AIDS Vaccine Development and Compensation Act of 1992 and the earlier legislation of which I was a cosponsor is that this legislation applies to the development phase of the vaccine as well as during the distribution of a fully approved vaccine. Not only will inclusion of the development phase expedite progress on the AIDS vaccine, the data gathered during this period will enable us to more accurately determine the source and extent of claims for potential compensation during the distribution phase.

COMPENSATION IS SPECIFIED AND INTERNALLY FUNDED

To provide compensation to those who may experience injury, illness, disability or death, side effects that have been associated with other vaccines, a trust fund will be created. Funding for the trust fund will be generated from an assessment placed on each dose of the AIDS vaccine administered. The assessment will be levied against the manufacturers of the AIDS vaccine being tested or distributed. The amount of the assessment will be based upon the estimated cost of the compensation likely for each type or category of vaccine administered.

Compensation will be provided from the fund to those experiencing injury, illness, disability or death as a result of receiving an AIDS vaccine. Compensation to injured parties will be for specified expenses incurred as a result of the vaccine administration. A limit is placed on the amount of compensation awarded for pain and suffering. A set amount is provided in the case of death attributable to administration of an AIDS vaccine.

AN APPROACH WORTH THE RISK

Some may phrase the question as we move to consider this legislation, "Can we afford to assume the risk of an AIDS vaccine?" As is so often the case when dealing with issues of this magnitude and urgency, the question must be reversed. The true consideration is, "Can we afford to assume the liability of the disease and not the liability of prevention?"

From discussions with advocacy groups, industry, academia, and the Government research and regulatory agencies, there is unanimity on the point that AIDS vaccine research efforts have been inhibited by the issue of liability. What the genesis of these concerns are and how great they may be, it is not easy to determine. What I am attempting to do, and more specifically what this legislation does, is to the extent the liability concerns are impeding progress, minimize these concerns.

THE ALTERNATIVE OF NOT ACTING

I'd like to comment briefly on what the result of not implementing the AIDS Vaccine Development and Compensation Act of 1992 may be.

Right now, there are reports from the National Institute of Allergy and Infectious Diseases [NIAID] of one AIDS vaccine trial that will not be initiated and a second that is being stopped because of liability concerns. These two impeded clinical trials are likely to be representative of others that have been stopped at an earlier stage or not even initiated because of similar concerns. If these claims are accurate and research will be halted on even a small number of potential vaccines, the overall prevention effort will suffer. If clinical trials are halted on the most promising and advanced of vaccines, which may be the case at present, and even if these vaccines are not ultimately the chosen candidates, significant ramifications result.

The NIAID calculated the effect of delaying the administration of an AIDS vaccine. In their hypothetical example, if a vaccine with a 60-percent effectiveness was delayed for 5 years awaiting the development of an AIDS vaccine with a 90-percent effectiveness, at the end of a 15 year period 46 percent more cases of HIV infection would have resulted.

Put another way, if we can get a vaccine that has some level of effectiveness out to our communities and to those most at risk as soon as is feasible, the results will be immediate and long lasting. I cited above the tremendous number of lives currently affected by HIV. The costs are also staggering. Average lifetime costs of treatment for one AIDS patient is now $102,000. Simple multiplication can produce some astonishing figures as to what delaying a vaccine may cost.

Whether the delay in administering a vaccine occurs because of the inherent difficulties of science or because of liability concerns, the results are the same. In this instance where the scientific questions pose such a great challenge, it would be a tragedy if liability concerns were allowed to compound this difficulty.

REQUEST FOR COMMENT

Existing legislation provides a functioning model for the approach taken in this legislation. While this is so, the uncertainties associated with the AIDS virus require reexamination of all aspects of this compensation program. We need the ideas and comments of all interested parties on this bill, as soon as is possible. This bill is undoubtedly just a "first draft" of what is needed in this complex and difficult field. No less than was the case earlier, the participation and cooperation of all interested sectors is necessary in order to fashion a successful AIDS vaccine development and compensation program.

I look forward to receiving your comments regarding the AIDS Vaccine Development and Compensation Act of 1992 and for your ultimate support.

□ 1800

THE GREAT CONSPIRACY OF THE TAX REVENUE ACT OF 1992

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York [Mr. OWENS] is recognized for 30 minutes.

Mr. OWENS of New York. Mr. Speaker, we are about to begin a recess until after Labor Day. As we begin this recess, I would like to take a few minutes to call upon the American people to take a hard look at what is happening to their Government here in Washington. We are in the throes of a Presidential election. This is a very important year. It is important that we all take a hard look at what is going on here in Washington, take a look at

what has gone on this week, last week, and 2 weeks before.

As you look, look with the eyes of a mystery reader. Do not use the standards that were set in your high school civics classes. Those are all obsolete. Begin to look at the Government of the United States, or democracy, the greatest democracy that ever existed. Look at it with the eyes of a person trying to unravel a set of conspiracies. The conspiracies keep exploding. There are more and more of them.

In the year when the BCCI came to its climax and a prominent Washingtonian was indicted for his role in the BCCI scandal, the same year that Iran-Contra led to the indictment of a former Secretary of Defense, in the year that the savings and loan bailout was admitted costing us as much as $200 billion, the conspiracies keep going.

The cynicism is as rampant now as it ever was. In fact, we are witnessing in Washington now one of the most cynical efforts to develop legislation that I have ever witnessed. The Revenue Act of 1992 is one of the most cynical pieces of legislation ever contrived. The Revenue Act of 1992 is supposed to be a response to the disturbances that took place in Los Angeles following the announcement of the verdict in the Rodney King case. Not only were there disturbances in Los Angeles, but what has not been publicized so widely, many other cities have had disturbances.

There was generally a frightening rumbling that took place in our cities. Naturally, it takes place in the cities, because that is where most of the people are; but people in general began to express anger of a kind which would spread beyond the usual inner city neighborhoods and beyond any one ethnic group.

The anger is there, and in response to that anger we have had some feeble efforts here in Washington, among those efforts there was a proposal to establish enterprise zones in certain urban and rural communities.

At the heart of the Tax Revenue Act of 1992 is the effort, supposed to be the effort to help relieve the kind of situation that led to the uprising, the violence in Los Angeles.

It is supposed to be an urban aid package. Funny name for an urban aid package, the Tax Revenue Act of 1992, but it is supposed to be an urban aid package.

The excuse for the Tax Revenue Act of 1992 is the relief of inner-city problems. We are using the need to relieve the problems in the inner cities as the reason for the Tax Revenue Act of 1992.

The Tax Revenue Act of 1992, and I hope you will take a close look at what has happened here. You will have time to examine it before the Congress reconvenes in September, and understand that the riot that took place in Los Angeles was nothing compared to the riot that is taking place in Washington.

The riot here, the orgy of spending, everybody likes to accuse everybody else of being big spenders, so nobody will own up to the fact that the Tax Revenue Act of 1992 is an orgy of spending.

They call them tax expenditures, not regular expenditures, but tax expenditures. Every time a tax loophole is created, every time there are tax giveaways, we lose money. These are revenue loses.

Economists have come to equate revenue losses and tax expenditures with regular budget expenditures, and they are correct. So we are spending money like mad while both parties accuse each other of being big spenders; but spending is out of control.

There is an orgy going on. There was $17 billion worth of tax breaks included in the Tax Revenue Act of 1992 when it passed the House of Representatives. This act passed the House of Representatives by a margin of 356 to 55. Almost everybody, except 55 people, voted for this Revenue Act of 1992, which gave enormous tax breaks, at least $17 billion, the New York Times estimates as much as 20 billion dollars worth of tax expenditures, and nobody claims that any more than $2.5 billion of those tax expenditures relate to the urban areas. Nobody claims anything beyond that $2.5 billion related to enterprise zones has anything to do with urban areas.

So the people who rioted in Los Angeles are the excuse for making the 5 percent of Americans who are richest more rich.

Now, $17 billion in the House is bad enough, but now we hear that in the other body the number has reached $31 or $32 billion and is still climbing. Tax giveaways, tax expenditures, big spenders giving money to the wealthiest 5 percent of the population and they are doing this in the name of relieving the burden in the cities. They are doing this in response to the people who rioted in Los Angeles.

I beg all you inner-city dwellers out there who need health care, who need housing, who need jobs, everybody in the inner cities, please never ever again assume that violence will help your cause. Do not riot again, please do not. Do not have uprisings again, because we will give away the rest of the country to the 5 percent of the richest people if you do it again.

This sets a precedent. If they give away $30 or $35 billion now, they will be waiting for the next riot to finish the job.

It is a conspiracy. It is an open conspiracy. It is an open orgy. It is obscene, and yet most of the people here have gone along with it; 356 voted for it in the House, only 55 voted against it. I am proud of the fact that I am one of the 55 who voted against the Tax Revenue Act of 1992.

Its Big Brother who will be coming back to the House in the fall, in September, and it will be double the size of the smaller brother that left here.

The Tax Revenue Act of 1992 is one of those open conspiracies. In a democracy, we have access to information. We have access to our Government. We can hear and see what is going on. Right before our very eyes they do it.

It is not a covert action. This is not Iran-Contra. It is not a conspiracy like Iran-Contra where it was hatched in the basement of the White House and carried out in the basement of the White House, and we learned about it only later.

No, no, this is right before our eyes, enormous tax expenditures are being made in the name of relieving the burden in the cities.

It is a riot taking place right here in Washington and it is not covert. It is overt.

The BCCI was a covert operation. It extended its tentacles into all regions of this Government and all governments throughout the world. The CIA Director had regular meetings with the head of the BCCI at one time.

We have the indictment of a man who was an adviser to Presidents and once the Secretary of State in connection with the BCCI.

That kind of conspiracy is not unique. As Americans, we had better start looking for conspiracies, networks of conspiracies, circles of conspiracies intertwined with each other. The savings and loan is probably one of the most costly conspiracies. It took place right out in the open, most of it. It was not covert.

We passed rules and regulations and laws. Our Government was in charge. There was collusion between the regulated and the regulators. It all happened right before our very eyes, and we do not respond. We do not respond as citizens, as voters, and that is bad enough; but the worst thing is that here in Washington nobody still seems to understand the kind of conspiracies that are going on and the need for each individual Congressman to take it upon himself to begin to react to these conspiracies.

□ 1810

There is a story in the New York Times business section today which just shows how blatant and open, how obscene the conspiracy can get right before our eyes. The heading for the story that appears in the business section of the New York Times is that the United States "is accused of easing the pursuit of S&L cases," savings and loan cases, savings and loan associations.

You will recall we have not heard much about that in the last few months because neither party wants to discuss it as we approach an election, but it is still very much on the agenda.

Billions of dollars that the American taxpayers will have to pay back be-

cause the savings and loans' boards of directors, executives, dealers, wheeler-dealers, stole it. We are in the midst of trying to get the money back.

The hearing that was held before the Senate, I will read from it because I think it is important for everybody to know. People do not read the business section of the New York Times, but this is one for everybody to understand just how open, blatant, how much nerve and chutzpah the conspirators have:

Government lawyers told a Senate panel that Federal attempts to sue and recover money from former officials of defunct savings-and-loan associations had been mismanaged and relaxed in recent months. They suggested that political influence played a role in weakened government efforts.

I am reading from an article that appeared in the New York Times today, Wednesday, August 12.

A lawyer with the Resolution Trust Corporation, the agency responsible for cleaning up collapsed savings-and-loan institutions, said the agency's dropped plans to sue officials of an institution around the time one of them visited with President Bush.

I am reading from the New York Times:

The lawyer, Jacqueline P. Taylor criticized the decision to resolve the matter out of court rather than to file a lawsuit as "an inappropriate settlement because of political reasons."

The panel, the Senate Banking, Housing and Urban Affairs Committee, also heard Ms. Taylor, two other agency lawyers and a top official of the General Accounting Office, a congressional investigative body, tell about organizational disruptions in the Resolution Trust program to recover money from those who helped cause the collapse of hundreds of savings and loan associations.

There are organizational disruptions within the organization that was appointed to recover our money.

Any reduction in recoveries by the government from savings-and-loan wrongdoers would increase the scandal's total cost to taxpayers, now estimated at more than $200 billion.

The most conservative estimate is that it has already cost the taxpayers $200 billion.

Continuing to read from the article which appeared in the New York Times today, August 12, the statement is made that:

At the hearing, the committee made public a Resolution Trust personnel policy implemented earlier this year that, in effect, set up special hiring preferences for well-connected attorneys seeking jobs at the corporation.

Well-connected means some of the same attorneys who were attorneys for the banks that are now defunct, the banks from whom we have to recover our money.

Continuing in the same article:

The lawyers, supported by the Senate committee's chairman, Donald W. Riegle, a Michigan Democrat, said the most experienced lawyers were being replaced or punished—

This is in the Resolution Trust Corporation—

the most experienced lawyers were being replaced or punished, allowing potential defendants off the hook. Two other agency attorneys who today told the panel there had been mismanagement in the legal program, Bruce Pederson and Bradley Smolkin, were recently reassigned and demoted from their position as managers.

I am reading from a New York Times article about the Resolution Trust Corporation, which is supposed to recover the money lost from defunct savings and loan associations.

Continuing in the article:

The three lawyers also criticized a draft memorandum prepared last month as part of a Bush Administration review of proposed government guidelines for suing officers and directors of banks and savings and loans. The guidelines, the lawyers said, would make it harder to sue directors who were not full-time employees of an institution.

We have an institutionalized effort to throttle and hamstring the efforts to recover billions of dollars that was stolen out of savings and loans, banks, funds guaranteed by the American taxpayers. It is your money, it is your Government, but your Government, or conspirators within the Government, are seeking to, prevent the recovery of the money. It is open, it is not secret. It is not hidden. This is not the Soviet Union. We do not have to worry about the Secret Service, the secret police bothering us. These people are openly testifying. They are using their constitutional rights. It is on the record. What are we going to do about it? Are these conspiracies forever going to be tolerated here? Are we going to sit and watch while the country is spent into oblivion?

The Soviet Union collapsed. It was a superpower. The bigger they are the harder they fall. So it is possible for a superpower to collapse, for very different reasons. Part of the reason the Soviet Union collapsed was because a handful of decisionmakers operating in closed circles made all of the decisions and were completely oblivious to what was going on in reality with the people. That is part of the reason they collapsed.

We are not in that position. We have an open society. Information flows abundantly. We know what is going on. We know that the savings and loans' boards of directors, executives, stole us blind. We know that. We know we have had to appropriate billions of dollars to make up for what they stole and guaranteed the depositors not sustain those losses. We know that. We know we created the Resolution Trust Corporation to go and recover the money. We know that. We know now that the resolution has been taken over by the very people it is supposed to recover the money from. They are in charge. This is an open, overt conspiracy.

The other overt conspiracy is going on right now in the legislature in the form of the tax giveaways with respect to the Revenue Act of 1992.

I pause at this point as I beg all of you to take time out to evaluate, to examine what has been going on here in Washington, stop listening to the speeches. They are all canned at this point; we know exactly what they are going to say. They are going to tell us we have no money for health care. The Democrats say we should have health care that every family can afford. But Democrats are not defining what "affords" means. Why not have health care for every family and guarantee that the health care is there? Well, we have no money. We are giving it away. We are giving away billions of dollars in tax breaks. We are spending $17 billion, $34 billion in tax breaks for the rich. We are making the richest people richer. Why not save some of that money and put it into health care? You are going to hear that there is no money, there is no money for the cities, there is no money for the cities. We use the cities' plight as an excuse to give away even more money to the rich.

Let me read to you from the 1992 Democratic platform. It is called A New Covenant with the American People. I want you to know that I am not alone in my spirit, in my sentiments, that there are people who feel that something is radically wrong, and they are in high positions. People who wrote the Democratic platform feel the same way I do, in general. Listen, listen to the preamble of the 1992 Democratic platform, "A New Covenant with the American People":

Two hundreds summers ago this Democratic Party was founded by the man whose burning pen fired the spirit of the American Revolution—who once argued we should overthrow our Government every 20 years to renew our freedom and to keep pace with a changing world. In 1992, the party Thomas Jefferson founded invokes his spirit of revolution anew.

I am reading from the Democratic Party platform preamble:

Our land reverberates with a battle cry of frustration that emanates from America's very soul, from the families in our bedrock neighborhoods, from the unsung workaday heroes of the world's greatest democracy and economy. America is on the wrong track. The American people are hurting. The American dream of expanding opportunity has faded. Middle-class families are working hard, playing by the rules, but still falling behind. Poverty has exploded. Our people are torn by divisions."

Further on it says:

We hear the anguish and the anger of the American people. We know it is directed not just at the Republican Administrations that have had the power but at Government itself. Their anger is justified. We can no longer afford business as usual—neither the policies of the last 12 years of tax breaks for the rich, mismanagement, lack of leadership and cuts in services for the middle class and the poor, nor the adoption of new programs and new spending without new thinking. It is time to listen to the grassroots of America,

time to renew the spirit of citizen activism that has always been the touchstone of a free and democratic society.

□ 1820

I am reading, my colleagues, from the 1992 Democratic platform, A New Covenant with the American People, excerpts from the preamble, I think that they are very much in order here at this point. I think they are very much in order at this point as we reexamine what has happened here the past year, all of these ringing truths, and I agree with every word of the Democratic preamble. The spirit of it is definitely correct. But where are the actions?

The policies of the last 12 years of tax breaks for the rich have accelerated in the last few weeks. We are giving bigger tax breaks for the rich than ever before. The House bill, H.R. 11, passed by a vote of 356 to 55, and of the $17 billion, only 2.5 billion of the tax breaks have anything to do with the original purpose of the bill: to help our cities. The rest of it are giveaways to the richest people of America so they get richer.

And now the other body is about to double that amount from 17 to about $34 billion in giveaways to the rich right before our very eyes while the speeches are being made and the preambles are being written. Right before our eyes the open robbery continues, the riot continues, the orgy of tax spending goes on. The very same people who would spend the day debating an increase in the amount of money we give for cancer research or the amount of money we provide for immunizations for young children, school age children, and say we are broke, we cannot afford it; the very people who insist we cannot afford universal health care, we cannot cover it, we cannot be like Canada, we cannot be like Japan or Germany; they say, "We cannot afford it. It would cost too much." These are the very same people who are giving away billions of dollars. They are big spenders because tax expenditures are equal to other expenditures in an economy like ours.

Mr. Speaker, we must come to grips with the fact that these open conspiracies must be confronted. Somebody has to represent the grassroots in Washington. The grassroots themselves had better communicate to the law makers over this recess period that they are aware of what is going on and they do not like it. I would tell them, understand every time you're told there's no money for health care that it's a big lie. Understand that if the Democratic leadership prepares a plan for health care and the plan does not provide for the coverage of every American citizen, they're only saying the plan will cover half of the uncovered by 1998, but they make no attempt to cover everybody as they do in Canada, or Great Britain or Germany. If they tell us they can't ever cover all the people because it will cost too much, confront them with the fact that we're giving away billions, that there's always enough money to take care of the lobbyists who line up at the Ways and Means Committee. There's always enough money to take care of the lobbyists who line up at the Finance Committee. Somehow ways will be found to meet their needs.

We have to understand that these open conspiracies are the cause of our anger and our hurt. There is a direct relationship between what goes on here openly before our very eyes and what we feel out there in the communities.

Nobody is waging an intense effort to deal with the unemployment in our States. Alaska has unemployment of 9.2 percent; California, 8.7 percent. There was a time when we thought anything above 4 percent was a major crisis, but we are quietly accepting unemployment in the District of Columbia at 8.5 percent; Massachusetts, 8.1 percent; Michigan, 8.3 percent; New Jersey, 8.8 percent; New York, 8.1 percent. And when we have unemployment in a big region like the State of New York or the State of New Jersey, a large State, then we get into the inner city communities, and the unemployment rate is usually double that of the unemployment rate for the whole State. Rhode Island is 9.4 percent; West Virginia, 11.1 percent unemployment. There are no intense efforts being mounted in Washington to deal with this unemployment crisis except through the back door.

They tell us that the billions of dollars of tax giveaways, $17 billion in the House, and now $34 billion may be in the Senate, that they will somehow stimulate the economy and one day jobs will be created. We have heard that argument before. That is how we got where we are. That is why we are in the position we are today. The trickle-down theory is that, if we take care of the rich and keep on giving enough to them, we will have eventually some benefits created for the poor.

Mr. Speaker, even among the Republicans Jack Kemp has said that under the criteria that we are using in the Tax Revenue Act of 1992 Los Angeles might not even qualify for any of the aid. The head of the minority in the other body, Mr. DOLE, said following the committee action—he characterized the enterprise zone provisions as being very anemic. The provision that is supposed to provide aid for the cities, even the other side of the aisle admits are ridiculous.

The excuse: The uprising in Los Angeles, the violence in Los Angeles. That excuse is being used to make the rich richer. I can think of nothing more cynical, I can think of no plot more dastardly, I can think of nothing that I have seen in the time that I have been here that is more frightening, to use the suffering, and the anger and the outrage of the people on the bottom, the poorest people, as an excuse to make the rich richer. To even go that far is beyond the cynicism of what was previously taking place here.

All this takes place in an atmosphere where the savings and loan association goes completely unnoticed. Americans accuse those who are working for savings and loan associations, accuse the Resolution Trust Corporation, of conspiring to thwart the mission of the agency. All this take place in an atmosphere where BCCI, the head of the bank, one of the largest banks in Washington, is indicted in the BCCI scandal. All this takes place in an atmosphere where the Attorney General has refused to even appoint a special prosecutor to look at what took place in the case of the largest amounts of unauthorized expenditures for Iran which led to the building up of the war machinery in Iran.

Conspiracy on top of conspiracy, networks of conspiracies. I tell the Americans, "Take a hard look into Government. Throw away your civics books from high school and start examining what's going on. We are witnessing the destruction of our country before our very eyes. There's a riot here in Washington, and the looters are making off with your children's future."

THE CONCERNS OF FARMERS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Indiana [Mr. JONTZ] is recognized for 60 minutes.

Mr. JONTZ. Mr. Speaker, I want to take a moment to compliment the gentleman from New York [Mr. OWENS] on his eloquent statement this evening on the problems facing our country, particularly those problems facing the residents of our great cities, and I share his observation that we have the resources, we do have the means to address the problem that citizens in our cities face, and I want to speak for a moment now about some of the problems that face all the residents of our country, particularly those who make their living in agriculture. The Fifth District of Indiana that I represent has a very significant farm population. The concerns of the farmers in my district are very similar to the concerns of farmers all across the country.

□ 1830

I would say the major concern, the major issue, that has our Nation's farmers upset at the present time is low farm prices. The prices that farmers receive for the commodities that they produce have been going down while the cost of production has been going up. There is very real economic pain on the farm today. Our Nation's agricultural policies have not worked. We have not ensured that the farmers

who make a significant investment in time, labor, in management, expertise, and in the capital of their farming operation, has a fair opportunity to earn a profit. For that reason we need to change the agricultural policies of our country.

The second issue that I have heard more from agricultural producers in my district about over the past year than any other has been the issue of wetlands.

Mr. Speaker, farmers in my district and across the country feel that our Nation's wetlands policies are confusing, that they are unfair. Farmers feel that they are being asked to do more than their fair share in protecting our Nation's wetlands.

Farmers were upset this last year when they began to receive wetlands delineation notices from the Department of Agriculture. Farmers feel that common sense has not been used in the implementation of our wetlands laws.

I understand the concerns of agricultural producers in my district and I agree with them, that our wetlands policies have not been successful and need to be changed. However, I feel that some in the agricultural community have been pursuing the wrong solution to the wetlands issue by supporting legislation which would help the developers, would help the oil companies, would help industry, and would help others, but would do very little for the problems facing the farmer when it comes to wetlands.

The bill that I am speaking about is H.R. 1330, the Hayes-Ridge bill. This bill would amend section 404 of the Clean Water Act in several ways by providing for the classification of wetlands based on their value and also by providing for the purchase by the Federal Treasury of the highest quality wetlands at a cost estimated by the CBO of from $10 to $15 billion.

Mr. Speaker, there are two reasons why this approach will not help the agricultural producers of this country. First, the problems facing farmers relate primarily to the swampbuster provisions of the farm bill concerning wetlands, not to section 404 of the Clean Water Act.

Section 404 of the Clean Water Act does not discriminate against farmers. What section 404 requires is for anyone who wishes to fill a wetland to obtain a permit from the Army Corps of Engineers. In fact, general farming activities are exempt from section 404.

I am sure there are farmers who have problems with obtaining permits under section 404, but my experience in northern Indiana is that most farmers have a lot more to be concerned about with the swampbuster provisions of the farm bill rather than section 404 of the Clean Water Act.

The second fallacy of H.R. 1330 is that we cannot afford it. The Congress this year has not appropriated even one dime for the existing Wetlands Reserve Program, which is the current program to make payments to farmers for wetlands which they voluntarily protect.

I offered an amendment to the agricultural appropriations bill on the floor of the House just a few weeks ago to maintain the current level of $46 million for the wetlands reserve program. That amendment was defeated. the Senate in the Agriculture appropriations bill did include $55 million for the Wetlands Reserve Program, but the conference committee on that bill deleted those funds. Just yesterday when this House approved the conference committee on the Agriculture appropriations bill, we approved a bill which would include no funding for the Wetlands Reserve Program.

So the program which is supposed to enroll 1 million acres will at the end of its second year have 50,000 acres enrolled. Somehow, in spite of our experience with the Wetland Reserve Program, which is falling so short of its goals because of the reluctance of Congress to appropriate funds, in spite of this experience, somehow the Federal Treasury is suppose to bear the cost under the Hayes-Ridge bill of acquiring anywhere from 9- to 16-million acres of wetlands in this country at a cost of $10 to $15 billion. That just is not going to happen. I think that the agricultural producers of our country should recognize that.

Farmers do have many valid points in their criticism of existing wetlands policy. One is that the minimal effects provision of the swampbuster program, which was expanded as a part of the farmer friendly amendments to the swampbuster which we passed as a part of the 1990 farm bill, has not been properly implemented.

Another valid complaint that farmers have with the swampbuster program is that it arbitrarily halts further activities on the part of the producer to improve drainage, regardless of the value of the wetlands which are affected.

Now, to put this in context, it is important to point out that the swampbuster program only affects those agricultural producers who choose to participate in the farm program. If you do not want to live by the requirements of the swampbuster law, you can avoid them by getting out or by staying out of the farm program.

Now, one must recall when the Congress wrote the swampbuster requirement in the 1985 farm bill that our Nation was in a period of large agricultural surpluses. I was not in the Congress in 1985 and thus was not involved in crafting this swampbuster provision. But the arguments that were successful when this provision was written were that it did not make any sense in times of agricultural surplus to allow farmers who were participating in the farm program and putting land into the set-aside program and taking other steps to keep their production in control to turn right around and then drain wetlands that increased their production on other acres.

The argument was that this was a contradiction, to require farmers to take land out of production on the one hand and then turn around and allow them to plow up new land, called the sodbuster law, or to drain wetlands, which is called the swampbuster law.

The existing law, the 1990 farm bill, particularly absent the use of the minimal effect provision, simply draws the line at whatever drainage currently exists. After a scope and effects determination by the Soil Conservation Service, the producer may be allowed to restore drainage to what it once was, but the producer is not going to be allowed under the swampbuster provision to increase drainage regardless of what the value may be of the wetlands that would be affected.

I think this is the main problem that agricultural producers today have with out wetland laws. Grandfather drained part of the farm, dad drained part of the farm, and the agricultural producer of today wants to drain part of the farm, too, but the swampbuster does not allow him to do that.

Some critics of the law believe that if it does not look like a swamp, then it is not a wetland. That simply is not true. I believe that both section 404 and the swampbuster program should use a unified definition, a scientifically based functional definition of wetlands. This definition will definitely include some land which has standing water only a portion of the year. But permanent standing water is not really what determines scientifically whether an area is a wetland or functionally whether an area is a wetland.

I support efforts to fund work by the National Academy of Science to produce a scientifically workable definition and delineation manual, because anything less than that will only result in further problems. In fact, the independent agencies funding bill that this House passed a few days ago provides an appropriation of $500,000 to the EPA for such a study. I think it would be enormously helpful in seeing that we have scientifically based definitions of wetlands.

That being said, I do believe the agriculture interests have a valid argument that the standards that they have to meet under the swampbuster program is a different standard than everyone else has to meet under section 404 of the Clean Water Act. There is no question about it, thousands of acres of valuable wetlands are destroyed by nonagriculture interests because of the loopholes in section 404. One of those loopholes pertains only to filling wetlands. Other activities which may destroy wetland values are not covered under section 404.

□ 1840

And section 404, to repeat, allows wetlands to be filled if the party receives a permit from the Corps of Engineers. So just because section 404 regulates the filling of wetlands does not mean it prevents the filling of wetlands. An individual can obtain a permit to fill a wetland; that happens every day. Most of the permits that are sought, in fact, are granted. And we are losing wetlands because of the weakness of section 404 of the Clean Water Act.

So my suggestion to our Nation's farm groups and the individuals they represent is this, take another look at the Hayes-Ridge bill. Is continuing your alliance with the other parties who want to loosen up section 404 really what is best for the agricultural producers of our Nation? Why not investigate whether environmental groups might agree to some additional flexibility in the swamp buster law in return for support in the agricultural community for making needed improvements in section 404?

The environmental community is very much aware that while the debate over swamp buster continues, they are losing much larger and in many cases more important wetlands as a result of the weaknesses of section 404.

I personally believe that there are many ways to make both the swamp buster and section 404 provisions, as they regulate wetlands, work better. I think we can achieve the President's objective of no net loss of wetlands and, at the same time, make it possible for agricultural producers to have more flexibility under the swamp buster requirements.

One of the points I often make to my nonrural colleagues in this House is that the farm program is not a welfare program. The farmer just does not go into the ASCS office and pick up a check. The farm program participation is a two-way street. It is a contract between the Government and the agricultural producers by which each gains benefits.

The farmer gains the benefits of farm payments, which help to supplement his income in these very difficult economic times. The farmer also gains the benefit of production-control strategies which help to improve prices. Even as low as prices are today, they would be lower if it were not for the provisions of the farm program.

What does the public gain? The public gains the benefit of agricultural production practices which conserve our Nation's resources and protect environmental values. We require the farmer to engage in conservation compliance. We require the farmer to engage in set-asides. We require the farmer to take these steps and others to ensure that the value of his farm for producing agricultural commodities is perpetuated and sustained for the benefit of future generations.

In addition, the consumers of our Nation, as a result of our farm program, also are guaranteed a dependable food supply. And I might add, a very affordable food supply compared to the cost of food in other nations around the world.

It is in the best interests of our country to make the farm program work, and that includes ironing out the problems with swamp buster. That is not going to be accomplished by H.R. 1330. It can be accomplished by discussions between agricultural and environmental interests who, by working together, can address the problems that farmers now have with swamp buster and in turn strengthen the provisions of section 404 of the Clean Water Act, which now allow other interests to get away with destroying wetlands which the farmer would never be allowed to do under the farm bill.

I do not want the leave the impression that swamp buster is not an important law in protecting our wetlands. I do not want to leave the impression that some of the smaller areas which initially might not to the farmer appear to be valuable as wetlands are without value. They may be very valuable in terms of maintaining the hydrologic balance, in terms of wildlife, in terms of preventing pollution. And if they do serve these functions, then they should be protected under the swamp buster program.

But I believe that we can put some additional flexibility in swamp buster to allow farmers to have greater flexibility in their farming operations and, at the same time, protect the wetlands values which the swamp buster law is designed to do.

Mr. Speaker, I have often assumed the sometimes lonely role on the House Committee on Agriculture of trying to work out the differences between agricultural and environmental interests. I believe that our Nation's farmers are correct when they express their commitment to conserving our environment. Most farmers in the Fifth District which I represent, and I believe this is true of agricultural producers nationwide, do feel strongly about conserving our resources. And they are committed to protecting our Nation's wetlands as well as our Nation's waters and soils.

I think that farmers in this country are willing to take reasonable, commonsense steps toward that end. At the same time, I believe that the environmental community in our country speaks for the interests of most Americans when they insist that we take seriously our responsibilities to future generations to be good stewards of the land.

I do not find the expressed interest of the environmental groups to be something that is dangerous to the agricultural community in our country. I think, in fact, that the environmental groups understand that we have to take common steps to deal with these problems because if the solutions we propose to the environmental issues that face agriculture do not work, then they do not accomplish the purposes for which they are intended.

It is disappointing to me that there are some in the agricultural community who persist in identifying environmentalists as an enemy. Rather than trying to work things out, there are some who see prolonging conflicts as best serving their interests. I do not believe that is true. I believe that agricultural-environmental interests can work together on the wetlands issue, on the clean water issue, on many other issues, because their mutual objectives are very much compatible.

Regrettably, there is not time remaining in the 102d Congress to resolve the differences over wetlands. We are not going to see the farm bill opened up. We are not going to see changes made in the swamp buster program. But the issue of wetlands should be a high priority for the Committee on Agriculture, for the Committee on Public Works and Transportation, and for the other committees of the 103d Congress that have jurisdiction over these issues.

I believe that by reformulating swampbuster and by strengthening section 404 of the Clean Water Act, we can devise the wetlands policy which better serves our agricultural producers, which allows them to continue to produce the food and fiber that our Nation depends on, hopefully, with better farm prices which will allow them to make a profit which they very much deserve, and protect wetlands, which are in the best interests of not just this generation but of future generations as well.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. GINGRICH (at the request of Mr. MICHEL) for today on account of injuries from an automobile accident.

Mr. MARKEY (at the request of Mr. GEPHARDT) for today on account of family emergency.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. MACHTLEY) to revise and extend their remarks and include extraneous material:)

Mrs. BENTLEY, for 5 minutes today, in lieu of 60-minute special order previously approved.

Mrs. MORELLA, for 5 minutes, today.

Mr. HUNTER, for 30 minutes, today.

Mr. DORNAN of California, for 5 minutes today, in lieu of 60-minute special order previously approved.

Mr. EMERSON, for 5 minutes, today.

(The following Members (at the request of Mr. DONNELLY) to revise and extend their remarks and include extraneous material:)

Mrs. SCHROEDER, for 5 minutes, today.

Mr. CARPER, for 5 minutes, today.

Mr. PANETTA, for 5 minutes, today.

Mr. ANNUNZIO, for 5 minutes, today.

Mr. OWENS of Utah, for 30 minutes, today.

(The following Member (at his own request) to revise and extend his remarks and include extraneous material:)

Mr. MAZZOLI, for 5 minutes, today.

(The following Member (at his own request) to revise and extend his remarks and include extraneous material:)

Mr. PEASE, for 5 minutes, today.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

(The following Members (at the request of Mr. MACHTLEY) and to include extraneous matter:)

Mr. BURTON of Indiana.
Mr. ALLARD.
Mr. DICKINSON.
Mr. BLILEY.
Mr. BAKER.
Mrs. MORELLA.
Ms. SNOWE in two instances.
Mr. HORTON in three instances.
Mr. LAGOMARSINO.
Mr. HYDE in two instances.
Mr. HUNTER.
Mr. GEKAS in three instances.
Mr. CAMPBELL of California.
Mr. MICHEL.
Mr. GILMAN.
Mr. SOLOMON.
Mr. EMERSON in five instances.
Mr. YOUNG of Alaska.
Mr. CRANE.
Mr. THOMAS of California.
Ms. ROS-LEHTINEN in two instances.
Ms. MOLINARI.
Mrs. BENTLEY.

(The following Members (at the request of Mr. DONNELLY) and to include extraneous matter:)

Mr. VENTO.
Mr. VISCLOSKY.
Mr. FALEOMAVAEGA.
Mr. LEVINE of California.
Mr. BLACKWELL.
Mr. TRAFICANT.
Mr. LANTOS in seven instances.
Mr. CLAY.
Mr. GUARINI.
Mr. YATRON.
Mr. KANJORSKI in two instances.
Mr. DOWNEY.
Mr. SOLARZ.
Mr. JOHNSON of South Dakota.
Mr. MONTGOMERY.
Mr. OBEY.
Mr. ANNUNZIO.
Mr. EVANS.
Mr. SKELTON.
Mr. MARKEY in two instances.
Mr. ORTIZ.
Mr. HOCHBRUECKNER.
Mr. SKAGGS.
Mr. EARLY.
Mr. FOLEY.
Mr. STUDDS in two instances.
Mr. HOYER.
Mr. NOWAK.
Mr. EDWARDS of California.
Mr. ACKERMAN.
Mr. BONIOR in two isntances.
Mr. NEAL of Massachusetts.
Mr. BEILENSON.
Mr. ROYBAL.
Mr. FOGLIETTA in two instances.
Mr. FASCELL in two instances.
Mr. LAFALCE.
Ms. OAKAR.
Mr. SABO.
Mr. ROEMER.
Mr. SWETT in two instances.
Mr. TOWNS.
Mr. HAMILTON.
Mr. PALLONE.
Mr. SCHUMER.
Mr. HUBBARD.
Mr. MCNULTY.
Mr. LANTOS in five instances.

ENROLLED BILL SIGNED

Mr. ROSE, from the Committee on House Administration, reported that that committee had examined and found truly an enrolled bill of the House of the following title, which was thereupon signed by the Speaker:

H.R. 5487. An act making appropriations for Agriculture, Rural Development, Food and Drug Administration, and Related Agencies programs for the fiscal year ending September 30, 1993, and for other purposes.

SENATE ENROLLED BILLS SIGNED

The SPEAKER announced his signature to enrolled bills of the Senate of the following titles:

S. 544. An act to protect animal enterprises;

S. 807. An act to permit Mount Olivet Cemetery Association of Salt Lake City, Utah, to lease a certain tract of land for a period of not more than 70 years; and

S. 3112. An act to amend the Public Health Service Act to make certain technical corrections, and for other purposes.

ADJOURNMENT

Mr. JONTZ. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to.

The SPEAKER pro tempore (Mr. ENGEL). Pursuant to the provisions of Senate Concurrent Resolution 135 of the 102d Congress, the House stands adjourned until 12 noon, Wednesday, September 9, 1992.

Thereupon (at 6 o'clock and 47 minutes p.m.), pursuant to Senate Concurrent Resolution 135, the House adjourned until Wednesday, September 9, 1992, at 12 noon.

ADDITIONAL APPOINTMENTS AS MEMBERS OF THE GLASS CEILING COMMISSION

Pursuant to the provisions of section 203(B)(1) of Public Law 102-166, and the order of the House of Wednesday, August 12, 1992, authorizing the Speaker and the minority leader to accept resignations and to make appointments authorized by law or by the House, the Speaker and Senate majority leader on August 12, 1992, did jointly appoint to the Glass Ceiling Commission the following individuals: Ms. Jean Ledwith King of Ann Arbor, MI; Ms. Beverly A. King of Culver City, CA; and Ms. Judith L. Lichtman of Washington, DC.

These appointments are in addition to those made to the Commission on July 22, 1992.

EXPENDITURE REPORTS CONCERNING OFFICIAL FOREIGN TRAVEL

Reports and amended reports of various committees of the United States House of Representatives concerning the foreign currencies used by them for official foreign travel during the first and second quarters of 1992 pursuant to Public Law 95-354 and the consolidated report of official foreign travel authorized by the Speaker of the U.S. House during the second quarter of 1992 are as follows:

AMENDED REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, COMMITTEE ON ARMED SERVICES, U.S. HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN JAN. 1 AND MAR. 21, 1992

Name of Member or employee	Date		Country	Per diem[1]		Transportation		Other Purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]
Visit to Korea and Japan, Feb. 11–16, 1991:											
Delegation expenses	2/13	2/16	Japan				1,293.93		338.91		1,632.84
Committee total							1,293.93		338.91		1,632.84
Visit to Germany, Czechslovakia, Austria, France, and Spain, Feb. 7–18, 1992:											
Delegation expenses	2/11	2/13	Czechsolovakia				101.35		4.16		105.51
	2/16	2/17	Spain				221.03		780.99		1,002.02
Committee total							322.38		785.15		1,107.53

[1] Per diem constitutes lodging and meals.
[2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.

LES ASPIN, Chairman, July 30, 1992.

AMENDED REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, PERMANENT SELECT COMMITTEE ON INTELLIGENCE, U.S. HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN JAN. 1 AND MAR. 31, 1992

Name of Member or employee	Date		Country	Per diem[1]		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]
McCurdy delegation	1/10	1/13	Africa				1,311.68				1,311.68
Committee totals							1,311.68				1,311.68

[1] Per diem constitutes lodging and meals.
[2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.

DAVE McCURDY. Chairman, July 29,1992.

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, COMMITTEE ON AGRICULTURE, U.S. HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN JAN. 1 AND MAR. 31, 1992

Name of Member or employee	Date		Country	Per diem[1]		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]
Hon. Tom Coleman	1/5	1/8	Russia		1,018.00		(3)				1,018.00
	1/8	1/12	Portugal		1,100.00		(3)				1,100.00
Hon. E de la Garza	2/1	2/2	Mexico		286.50		(3)				286.50
Marshall Livingston	2/1	2/2	Mexico		286.50		(3)				286.50
Committee total					2,691.00						2,691.00

[1] Per diem constitutes lodging and meals.
[2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.
[3] Military transportation.

E de la GARZA, Chairman, Apr. 30, 1992.

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, COMMITTEE ON ARMED SERVICES, U.S. HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN APR. 1 AND JUNE 30, 1992

Name of Member or employee	Date		Country	Per diem[1]		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]
Visit to Germany and Italy Apr. 13–17, 1992:											
Clark A. Murdock	4/13.	4/16.	Germany		225.00						225.00
	4/16.	4/17.	Italy		333.00						333.00
Commercial airfare							3,052.70				3,052.70
Vernon A. Guidry	4/13.	4/16.	Germany		225.00						225.00
	4/16.	4/17.	Italy		333.00						333.00
Commercial airfare							3,052.70				3,052.70
Visit to France, Apr. 11–14 and 18–19, 1992:											
Hon. Les Aspin	4/11.	4/14.	France		762.00						762.00
	4/18.	4/19.	France		254.00		15.68				269.68
Visit to Canada, Apr. 14–18, 1992:											
Hon. H. Martin Lancaster	4/14.	4/18.	Canada		972.00						972.00
Hon. Floyd Spence	4/14	4/18.	Canada		972.00						972.00
Hon. Dennis M. Hertel	4/14.	4/18.	Canada		972.00						972.00
Ronald J. Bartek	4/14.	4/18.	Canada		972.00						972.00
Mary C. Redfern	4/14.	4/18.	Canada		972.00						972.00
Committee total					6,992.00		6,121.08				13,113.08

[1] Per diem constitutes lodging and meals.
[2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.

LES ASPIN, Chairman, July 30, 1992.

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, COMMITTEE ON APPROPRIATIONS, U.S HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN APR. 1 AND JUNE 30, 1992

Name of Member or employee	Date		Country	Per diem[1]		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]
Hon. William Lehman	4/13	4/16	Latvia, Estonia, Lithuania		765.00						765.00

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, COMMITTEE ON APPROPRIATIONS, U.S HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN APR. 1 AND JUNE 30, 1992—Continued

Name of Member or employee	Date		Country	Per diem[1]		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]
	4/16	4/19	Poland		576.00						576.00
Transportation provided by military aircraft							[3]				
Hon. John Murtha	5/3	5/3	Panama				1,490.00				1,490.00
Transportation provided by military aircraft							[3]				
Gregory Dahlberg	4/12	4/13	Russia		346.00						346.00
	4/13	4/15	Ukraine		488.00						488.00
	4/15	4/16	Germany		316.00						316.00
Commercial air transportation							4,660.00				4,660.00
Robert V. Davis	4/12	4/13	Russia		358.00						358.00
	4/13	4/15	Ukraine		488.00						488.00
	4/15	4/16	Uzbekistan		197.00						197.00
	4/16	4/22	Greece		957.00						957.00
Commercial air transportation							8,907.00				8,907.00
Richard N. Malow	4/10	4/15	Costa Rica		860.00						860.00
Commercial air transportation							569.00				569.00
Juliet Pacquing	4/12	4/16	Turkey		583.00						583.00
	4/16	4/21	Greece		754.00						754.00
	4/21	4/24	Spain		386.00						386.00
	4/24	4/25	Portugal		278.00						278.00
Commercial air transportation							4,558.70				4,558.70
Timothy Peterson	4/11	4/15	Denmark		616.00						616.00
	4/15	4/15	Norway		91.00						91.00
	4/15	4/16	Denmark		154.00						154.00
	4/16	4/21	Greece		754.00						754.00
	4/21	4/22	Spain		75.00						75.00
	4/22	4/24	Germany		460.00						460.00
Commercial air transportation							4,639.37				4,639.37
John Plashal	5/3	5/3	Panama				1,490.00				1,490.00
Military air transportation							[4]				
William Schuerch	4/13	4/16	Latvia, Estonia, Lithuania		765.00						765.00
	4/16	4/18	Poland		384.00						384.00
Commercial air transportation (Poland to D.C.).							1,152.70				1,152.70
Gregory Walters	5/3	5/3	Panama				1,490.00				1,490.00
Military air transportation							[4]				
Committee total					10,651.00		28,956.77				39,607.77
Appropriations, surveys and investigations staff:											
Henry Avalos	4/20	4/26	England		1,298.50		3,904.00		188.22		5,390.72
	4/26	5/2	Austria		967.00						967.00
G. Carter Baird	4/20	4/24	England		800.25		3,904.00		85.08		4,789.33
	5/24	5/29	Belgium		915.00		3,047.00		112.92		4,074.92
Thomas K. Baker	4/3	4/10	France		1,174.25		3,940.00		343.75		5,458.00
	4/10	4/15	Switzerland		887.25						887.25
	4/15	4/17	Spain		372.75						372.75
	4/17	4/25	England		1,872.75						1,872.75
	6/1	6/5	Japan		912.00		4,336.00		150.56		5,398.56
	6/5	6/9	Malaysia		565.25						565.25
	6/9	6/11	Bangladesh		260.75						260.75
	6/11	6/12	Thailand		175.50						175.50
Catherine A. Basl	6/6	6/12	Germany		852.75		3,445.32		24.20		4,322.27
Roger T. Castonguay	4/20	4/26	France		1,121.00		3,396.00		133.00		4,650.00
	4/26	5/2	Austria		1,008.50						1,008.50
	5/24	5/30	Belgium		1,152.50		3,406.40		127.83		4,686.73
	5/30	6/6	Italy		1,870.25						1,870.25
Gerald T. Coughlin	4/20	4/26	England		1,298.50		3,904.00		210.39		5,412.89
	4/26	4/30	Austria		635.00						635.00
Alfred L. Esposito	4/3	4/9	Israel		1,198.00		3,025.40		60.84		4,284.24
	4/9	4/11	Cyprus		226.00						226.00
	4/11	4/12	France		153.00						153.00
Anthony J Gabriel	4/20	4/26	France		1,121.00		3,396.00		172.72		4,689.72
	4/26	5/2	Austria		1,008.50						1,008.50
	5/24	5/30	Belgium		1,152.50		3,406.40		120.76		4,679.66
	5/30	6/6	Italy		1,870.25						1,870.25
Charles V. Gorsey	4/3	4/9	Israel		1,198.00		3,025.40		27.00		4,250.40
	4/9	4/11	Cyprus		226.00						226.00
	4/11	4/12	France		153.00						153.00
Dennis K. Lutz	6/6	6/12	Germany		852.75		3,445.32		46.20		4,344.27
Robert H. Pearre	5/8	5/12	Japan		952.00		3,189.00		113.99		4,254.99
	5/12	5/15	Thailand		489.00						489.00
Vincent J. Pistolessi	4/3	4/9	Israel		1,198.00		3,025.40		68.00		4,291.40
	4/9	4/11	Cyprus		226.00						226.00
	4/11	4/12	France		153.00						153.00
Thomas R. Reilly	5/8	5/12	Japan		952.00		3,189.00		105.21		4,246.21
	5/12	5/15	Thailand		489.00						489.00
Robert J. Reitwiesner	4/3	4/10	France		1,174.25		3,658.12		358.08		5,190.45
	4/10	4/15	Switzerland		887.25						887.25
	4/15	4/17	Spain		426.00						426.00
	4/17	4/22	Belgium		997.50						997.50
	4/22	4/24	Netherlands		325.25						325.25
	6/1	6/5	Japan		912.00		4,336.00		167.04		5,415.04
	6/5	6/9	Malaysia		565.25						565.25
	6/9	6/11	Bangladesh		260.75						260.75
	6/11	6/12	Thailand		175.50						175.50
Philip P. Rittman	4/3	4/8	France		917.00		3,961.30		609.13		5,487.43
	4/8	4/10	Switzerland		408.00						408.00
	4/10	4/14	Monaco		1,080.00						1,080.00
	4/14	4/17	Italy		774.00						774.00
	4/17	4/25	England		1,828.50						1,828.50
R.W. Vandergrift, Jr	4/11	4/14	Russia		524.00		4,195.40		133.59		4,853.49
	4/14	4/15	Ukraine		291.00						291.00
	4/15	4/16	Uzbekistan		112.00						112.00
	4/16	4/17	Germany		225.00						225.00
Thomas L. Van Derslice	4/20	4/25	France		929.50		3,218.73		44.30		4,192.53
Kenneth P. Walton	4/3	4/8	France		917.00		3,644.81		381.24		4,943.05
	4/8	4/10	Switzerland		408.00						408.00
	4/10	4/14	Monaco		1,080.00						1,080.00
	4/14	4/17	Italy		774.00						774.00
	4/17	4/22	Belgium		997.50						997.50

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, COMMITTEE ON APPROPRIATIONS, U.S HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN APR. 1 AND JUNE 30, 1992—Continued

Name of Member or employee	Date		Country	Per diem[1]		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]
	4/22	4/24	Netherlands		325.25						325.25
Ben A. Weaver	4/3	4/9	Israel		1,198.00		3,025.40		130.05		4,353.45
	4/9	4/11	Cyprus		226.00						226.00
	4/11	4/12	France		153.00						153.00
L. Michael Welsh	4/3	4/9	Israel		1,198.00		3,025.40		61.55		4,284.95
	4/9	4/11	Cyprus		226.00						226.00
	4/11	4/12	France		153.00						153.00
Committee total					52,226.75		88,049.80		3,975.65		144,252.20

[1] Per diem constitutes lodging and meals.
[2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.
[3] Transportation provided by military aircraft.
[4] Military aircraft.

JAMIE L. WHITTEN, Chairman, July 20, 1992.

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, COMMITTEE ON THE BUDGET, U.S. HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN APR. 1 AND JUNE 30, 1992

Name of Member or employee	Date		Country	Per diem[1]		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]
Joan Kois Woodward	4/10	4/15	Hungary		1,035.00		[3]3,199.40				4,234.40
Ron Boster	4/10	4/14	Hungary		828.00		[3]3,199.40				4,027.40
Committee total					1,863.00		6,398.80				8,261.80

[1] Per diem constitutes lodging and meals.
[2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.
[3] Commercial.

LEON E. PANETTA, Chairman, July 29, 1992.

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, COMMITTEE ON POST OFFICE AND CIVIL SERVICE, U.S. HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN APR. 1 AND JUNE 30, 1992

Name of Member or employee	Date		Country	Per diem[1]		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]
Rochelle Wilkie Martinez	3/31	4/3	Canada	499.54	424.61		385.93			499.54	810.54
Carl E. Anderson, Jr.	3/31	4/4	Canada	922.25	775.00		435.43			922.25	1,210.43
Committee total					1,199.61		821.36				2,020.97

[1] Per diem constitutes lodging and meals.
[2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.

WILLIAM L. CLAY, Chairman, July 9, 1992.

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, PERMANENT SELECT COMMITTEE ON INTELLIGENCE, U.S. HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN APR. 1 AND JUNE 30, 1992

Name of Member or employee	Date		Country	Per diem[1]		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]
Calvin R. Humphrey, staff	4/27	5/1	Europe		834.00		2,957.00				3,791.00
W. Ross Newland, staff	4/27	5/1	Europe		834.00		2,957.00				3,791.00
Committee total				1,668.00		5,914.00				7,582.00	

[1] Per diem constitutes lodging and meals.
[2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.

DAVE McCURDY, Chairman, July 29, 1992.

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, COMMISSION ON SECURITY AND COOPERATION IN EUROPE, U.S. HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN APR. 1 AND JUNE 30, 1992

Name of Member or employee	Date		Country	Per diem[1]		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]
Michael Amitay		5/21	United States				4,050.00				4,050.00
	5/22	5/23	Russia		340.00						340.00
	5/23	5/25	Turkmenistan		320.00						320.00
	5/25	5/27	Kazakhstan		320.00						320.00
	5/27	5/29	Kyrgyzstan		320.00						320.00
	5/29	5/30	United Kingdom		250.00						250.00
Patricia Carley		3/21	United States				3,418.85				3,418.85
	3/22	4/10	Finland		2,451.00				[3]878.37		3,329.37
		5/21	United States				2,979.00				2,979.00
	5/22	5/23	Russia		290.00						290.00
	5/23	5/25	Turkmenistan		270.00						270.00
	5/25	5/27	Kazakhstan		270.00						270.00

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, COMMISSION ON SECURITY AND COOPERATION IN EUROPE, U.S. HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN APR. 1 AND JUNE 30, 1992—Continued

Name of Member or employee	Date		Country	Per diem[1]		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]
	5/27	5/29	Kyrgyzstan		270.00						270.00
Orest Deychakiwsky		3/21	United States				3,190.00				3,190.00
	3/22	4/4	Finland		1,677.00				[3]600.99		2,277.99
David Evans		4/30	United States				3,112.00				3,112.00
	5/1	5/9	Finland		1,328.00		609.73		[3]369.84		2,307.57
	5/9	5/16	Russia		1,519.00						1,519.00
	5/16	5/27	Finland		1,826.00		690.86		[3]508.53		3,348.75
									323.36		
		6/24	United States				4,146.00				4,146.00
	6/25	6/26	Russia		358.00				59.90		417.90
	6/26	6/30	Georgia		708.00				66.50		774.50
	6/30	7/2	Moldova		224.00				5.00		229.00
	7/2	7/4	Byelarus		224.00				20.00		244.00
	7/4	7/11	Finland		1,512.00		60.63		[3]323.61		1,896.24
John Finerty		6/24	United States				3,973.00				3,973.00
	6/25	6/26	Russia		358.00						358.00
	6/26	6/30	Georgia		708.00				46.50		754.50
	6/30	7/2	Moldova		224.00						224.00
	7/2	7/4	Byelarus		224.00						224.00
Robert Hand		4/28	United States				1,056.00				1,056.00
	4/29	7/5	Finland		7,426.20				[3]3,097.41		10,523.61
Heather Hurlburt	3/21	4/18	Finland		4,522.00				[3]1,294.44		5,816.44
		5/3	United States				2,886.00				2,886.00
	5/4	7/12	Finland		11,700.00		253.63		[3]3,189.87		15,143.50
Ronald McNamara		3/21	United States				1,230.37				1,230.37
	3/22	4/16	Finland		3,652.00		224.92		[3]1,201.98		5,078.90
Michael Ochs		5/29	United States				2,699.30				2,699.30
	5/30	6/1	Turkey		191.00						191.00
	6/3	6/8	Azerbaijan		800.00						800.00
	6/8	6/9	Turkey		191.00						191.00
		6/24	United States				4,003.80				4,003.80
	6/25	6/26	Russia		358.00						358.00
	6/26	6/30	Georgia		708.00				46.50		754.50
	6/30	7/2	Moldova		224.00						224.00
	7/2	7/4	Byelarus		224.00						224.00
	7/4	7/5	Poland		43.00						43.00
R. Spencer Oliver		6/18	United States				2,838.80				2,838.80
	6/21	6/24	Finland		648.00						648.00
Erika Schlager		4/30	United States				2,987.60				2,987.00
	5/1	7/5	Finland		9,344.20				[3]3,004.95		12,349.15
Victoria Showalter		3/21	United States				1,718.90				1,718.90
	3/22	4/18	Finland		3,890.68		64.80		[3]1,248.21		5,203.69
Samuel Wise		3/23	United States				1,210.00				1,210.00
	3/24	4/10	Finland		2,947.00				[3]785.91		3,732.91
		5/21	United States				2,600.70				2,600.70
	5/22	5/23	Russia		190.00						190.00
	5/23	5/25	Turkmenistan		170.00						170.00
	5/25	5/27	Kazakhstan		170.00						170.00
	5/27	5/29	Kyrgyzstan		170.00						170.00
	5/29	6/13	Finland		2,562.00				[3]693.45		3,255.45
		6/20	United States				2,871.70				2,871.70
	6/21	7/2	Finland		2,068.00		250.54		[3]508.53		2,827.07
	7/2	7/5	Hungary		645.00						645.00
	7/5	7/11	Finland		1,296.00				[3]277.38		1,573.38
Committee total					70,131.08		53,127.13		18,551.23		141,809.44

[1] Per diem constitutes lodging and meals.
[2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.
[3] Portion of shared administrative costs for participation on United States delegation to the Helsinki follow-up meeting.

STENY H. HOYER, July 30, 1992.

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, DELEGATION TO LATVIA, ESTONIA, LITHUANIA, AND POLAND, U.S. HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN APR. 12 AND APR. 19, 1992

Name of Member or employee	Date		Country	Per diem[1]		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]
Hon. Martin Frost	4/13	4/16	Latvia		765.00						765.00
	4/14	4/14	Estonia								
	4/16	4/16	Lithuania								
	4/16	4/19	Poland	7,718.400	[3]576.00						576.00
Hon. William Lehman	4/13	4/16	Latvia		765.00						765.00
	4/14	4/14	Estonia								
	4/16	4/16	Lithuania								
	4/16	4/19	Poland	7,718.400	[3]576.00						576.00
Hon. David Price	4/13	4/16	Latvia		765.00						765.00
	4/14	4/14	Estonia								
	4/16	4/16	Lithuania								
	4/16	4/19	Poland	7,718.400	[3]576.00						576.00
Hon. John Paul Hammerschmidt	4/13	4/16	Latvia		765.00						765.00
	4/14	4/14	Estonia								
	4/16	4/16	Lithuania								
	4/16	4/19	Poland	7,718.400	[3]576.00						576.00
Hon. Lucien Nedzi	4/13	4/16	Latvia		765.00						765.00
	4/14	4/14	Estonia								
	4/16	4/16	Lithuania								
	4/16	4/19	Poland	7,718.400	[3]576.00						576.00
Kristi E. Walseth	4/13	4/16	Latvia		765.00						765.00
	4/14	4/14	Estonia								
	4/16	4/16	Lithuania								
	4/16	4/19	Poland	7,718.400	[3]576.00						576.00
Cathy Brickman	4/13	4/16	Latvia		765.00						765.00
	4/14	4/14	Estonia								
	4/16	4/16	Lithuania								

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, DELEGATION TO LATVIA, ESTONIA, LITHUANIA, AND POLAND, U.S. HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN APR. 12 AND APR. 19, 1992—Continued

Name of Member or employee	Date		Country	Per diem[1]		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]
	4/16	4/19	Poland	7,718.400	[3]576.00						576.00
William Freeman	4/13	4/16	Latvia		765.00						765.00
	4/14	4/14	Estonia								
	4/16	4/16	Lithuania								
	4/16	4/19	Poland	7,718.400	[3]576.00						576.00
Committee total					10,728.00						10,728.00

[1] Per diem constitutes lodging and meals.
[2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.
[3] Military transportation.

MARTIN FROST, May 12, 1992.

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, DELEGATION TO CZECHOSLOVAKIA, AUSTRIA AND GERMANY, U.S. HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN APR. 20 AND APR. 30 1992

Name of Member or employee	Date		Country	Per Diem[1]		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]
Henry Collins	4/21	4/22	Czechoslovakia		75.00						75.00
	4/22	4/26	Austria	7,777.10	664.00						664.00
	4/26	4/28	Germany		[3]604.00						604.00
	4/28	4/30	Czechoslovakia		150.00						150.00
Commercial transportation							3,143.30				3,143.30
William Kinter	4/21	4/22	Czechoslovakia		75.00						75.00
	4/22	4/26	Austria	7,777.10	664.00						664.00
	4/26	4/28	Germany		[3]604.00						604.00
	4/28	4/30	Czechoslovakia		150.00						150.00
Commercial transportation							3,143.30				3,143.30
Susan Zeleniak	4/21	4/22	Czechoslovakia		75.00						75.00
	4/22	4/26	Austria	7,777.10	664.00						664.00
	4/26	4/28	Germany		[3]604.00						604.00
	4/28	4/30	Czechoslovakia		150.00						150.00
Commercial transportation							3,143.30				3,143.30
Committee total					4,479.00		9,429.90				13,908.90

[1] Per diem constitutes lodging and meals.
[2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.
[3] Includes subsistence payments for April 22 thru April 27, 1992.

KRISTI E. WALSETH, May 6, 1992.

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, DELEGATION TO BRAZIL, U.S. HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN JUNE 5 AND JUNE 8, 1992

Name of Member or employee	Date		Country	Per diem[1]		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]
Hon. Anthony Beilenson	6/5	6/8	Brazil	1,255			[3]				1,255
Hon. Ben Blaz	6/5	6/9	Brazil	1,506			[3]+1.515				3,021
Hon. Cardiss Collins	6/5	6/8	Brazil	1,255			[3]				1,255
Hon. Edward Feighan	6/5	6/8	Brazil	1,255			[3]				1,255
Hon. Bill Green	6/5	6/7	Brazil	753			[3]+2,405				3,158
Hon. Dennis Hertel	6/5	6/8	Brazil	1,255			[3]				1,255
Hon. Constance Morella	6/5	6/8	Brazil	1,255			[3]				1,255
Hon. George Miller	6/5	6/8	Brazil	1,255			[3]				1,255
Hon. John Miller	6/5	6/6	Brazil	753			[3]+635				1,388
Hon. Nancy Pelosi	6/5	6/8	Brazil	1,255			[3]				1,255
Hon. John Porter	6/5	6/8	Brazil	1,255			[3]				1,255
Hon. James Scheuer	6/5	6/8	Brazil	1,255			[3]				1,255
Hon. Gerry Sikorski	6/5	6/8	Brazil	753			[3]+1,571				2,324
Hon. Jolene Unsoeld	6/5	6/8	Brazil	1,255			[3]				1,255
Nancy Carman	6/5	6/8	Brazil	1,255			[3]				1,255
Carol Doherty	6/5	6/8	Brazil	1,255			[3]				1,255
Daniel Finn	6/5	6/8	Brazil	1,255			[3]				1,255
David Finnegan	6/5	6/8	Brazil	1,255			[3]				1,255
Jessica Laverty	6/5	6/8	Brazil	1,255			[3]				1,255
John Lawrence[4]	6/5	6/8	Brazil	1,138			[3]				1,138
Eileen Lee	6/5	6/8	Brazil	1,255			[3]				1,255
Julia Moffett[4]	6/5	6/8	Brazil	1,141			[3]				1,141
Joan Rose	6/5	6/8	Brazil	1,255			[3]				1,255
Daniel Weiss[4]	6/5	6/8	Brazil	986			[3]				986
Committee total					28,365		6,126				34,491
Hon.	6/5	6/8	Brazil				[3]				

[1] Per diem constitutes lodging and meals.
[2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.
[3] Military transportation.
[4] Return of unused per diem as follows: Lawrence, $117; Moffett, $114; Weiss, $269.

GEORGE MILLER, June 23, 1992.

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, DELEGATION TO HUNGARY, AUSTRIA AND BULGARIA, U.S. HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN JUNE 22 AND JULY 11, 1992

Name of member or employee	Date		Country	Per diem[1]		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]
Cathy Brickman	6/23	7/6	Hungary	184,328	2,365.00						2,365.00
	6/25	6/27	Austria		210.00						210.00
	7/6	7/11	Bulgaria		1,385.00						1,385.00
Commercial transportation							3,463.00				3,463.00
William Freeman	6/23	7/6	Hungary	184,328	2,365.00						
	6/25	6/27	Austria		210.00						2,365.00
	7/6	7/11	Bulgaria		1,385.00						1,385.00
Commercial transportation							3,463.00				3,463.00
Committee total					7,920.00		6,926.00				14,846.00

[1] Per diem constitutes lodging and meals.
[2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, MR. JAMES P. McGOVERN, U.S. HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN APR. 10 AND APR. 14, 1992

Name of Member or employee	Date		Country	Per diem[1]		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]
James P. McGovern	4/10	4/14	El Salvador	3,455.36	421.89		1,185.00				1,687.56
Committee total					421.89		1,185.00				1,687.56

[1] Per diem constitutes lodging and meals.
[2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.

JAMES P. McGOVERN, May 6, 1992.

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, REP. CHARLES B. RANGEL, U.S. HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN MAY 16 AND MAY 19, 1992

Name of Member or employee	Date		Country	Per diem[1]		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]
Charles B. Rangel	5/16	5/18	Bahamas		383.00		[3]				383.00
	5/18	5/19	Haiti		75.00		483.00				558.00
Ground transportation							229.13				229.13
Committee total					458.00		712.13				1,170.13

[1] Per diem constitutes lodging and meals.
[2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. current is used, enter amount expended.
[3] Military transportation.

CHARLES B. RANGEL, Aug. 4, 1992.

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, MR. ROGER R. SZEMRAJ, U.S. HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN MAY 19 AND MAY 30, 1992

Name of Member or employee	Date		Country	Per diem[1]		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]
Roger R. Szemraj	5/20	5/26	Poland	10,984,000	796.00						796.00
	5/26	5/29	Hungary	48,810	621.00						621.00
	5/19	5/30					[3]3,188.70				3,188.70
Committee total					1,417.00		3,188.70				4,605.70

[1] Per diem constitutes lodging and meals.
[2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.
[3] International travel, United States to Poland, Hungary to United States.

ROGER R. SZEMRAJ, June 17, 1992.

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, MS. MEREDITH COOPER, U.S. HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN APR. 14 AND APR. 26, 1992

Name of Member or employee	Date		Country	Per diem[1]		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]
Meredith Cooper	4/14	4/16	Senegal		690.00						690.00
	4/16	4/21	Cote d'Ivorie		1,052.00						1,052.00
	4/21	4/26	Ghana		2,609.25						2,609.25
Total commercial airfare							4,136.00				4,136.00
Committee Total					4,351.35		4,136.000				8487.35

[1] Per diem constitutes lodging and meals.
[2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.

MEREDITH COOPER, Aug. 11, 1992.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

4092. A letter from the Secretary, Federal Trade Commission, transmitting an update to the 1991 annual report on the current practices and methods of cigarette advertising and promotion, pursuant to 15 U.S.C. 1331 et seq.; to the Committee on Energy and Commerce.

4093. A letter from the Deputy Director, Defense Security Assistance Agency, transmitting notification of the Department of the Air Force's proposed Letter(s) of Offer and Acceptance [LOA] to the Netherlands for defense articles and services (Transmittal No. 92-32), pursuant to 22 U.S.C. 2776(b); to the Committee on Foreign Affairs.

4094. A letter from the Assistant Secretary of State for Legislative Affairs, transmitting copies of the original report of political contributions of Harry J. Gilmore, of Virginia, to be Ambassador to the Republic of Armenia, and members of his family, pursuant to 22 U.S.C. 3944(b)(2); to the Committee on Foreign Affairs.

4095. A letter from the Acting Director, U.S. Arms Control and Disarmament Agency, transmitting the annual "Report to Congress on Arms Control and Disarmament Studies," pursuant to Public Law 100-213, section 4 (101 Stat. 1445); to the Committee on Foreign Affairs.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XXIV, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Ms. SLAUGHTER: Committee on Rules. House Resolution 555. Resolution providing for the consideration of the bill (H.R. 4706) to amend the Consumer Product Safety Act to extend the authorization of appropriations under that act, and for other purposes (Report No. 102-840). Referred to the House Calendar.

Mr. BROWN: Committee on Science, Space, and Technology. H.R. 5231. A bill to amend the Stevenson-Wydler Technology Innovation Act of 1980 to enhance manufacturing technology development and transfer, to authorize appropriations for the Technology Administration of the Department of Commerce, including the National Institute of Standards and Technology, and for other purposes; with an amendment (Rept. 102-841). Referred to the Committee of the Whole House on the State of the Union.

Mr. ROE: Committee on Public Works and Transportation. H.R. 5754. A bill to provide for the conservation and development of water and related resources, to authorize U.S. Army Corps of Engineers civil works program to construct various projects for improvements to the Nation's infrastructure, and for other purposes; with an amendment (Rept. 102-842). Referred to the Committee of the Whole House on the State of the Union.

Mr. JONES of North Carolina: Committee on Merchant Marine and Fisheries. H.R. 3842. A bill to extend the territorial sea and the contiguous zone of the United States, and for other purposes; with an amendment (Rept. 102-843, Pt. 1). Ordered to be printed.

Mr. GONZALEZ: Committee on Banking, Finance and Urban Affairs. H.R. 4300. A bill to amend the Stewart B. McKinney Homeless Assistant Act to extend programs providing urgently needed assistance for the homeless, and for other purposes; with an amendment (Rept. 102-844, Pt. 1). Ordered to be printed.

Mr. FORD of Michigan: Committee on Education and Labor. H.R. 4014. A bill to improve education in the United States by promoting excellence in research, development, and the dissemination of information; with an amendment (Rept. 102-845). Referred to the Committee of the Whole House on the State of the Union.

Mr. DINGELL: Committee on Energy and Commerce. H.R. 5346. A bill relating to Native Hawaiian Health Care, and for other purposes; with an amendment (Rept. 102-846). Referred to the Committee of the Whole House on the State of the Union.

Mr. BROOKS: Committee on the Judiciary. H.R. 5096. A bill to supersede the Modification of Final Judgment entered August 24, 1982, in the antitrust action styled U.S. versus Western Electric, Civil Action No. 82-0192, U.S. District Court for the District of Columbia; and for other purposes; with an amendment (Rept. 102-850). Referred to the Committee of the Whole House on the State of the Union.

REPORTS OF COMMITTEES ON PRIVATE BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. BROOKS: Committee on the Judiciary. H.R. 4069. A bill for the relief of Rollins H. Mayer; with an amendment (Rept. 102-847). Referred to the Committee of the Whole House.

Mr. BROOKS: Committee on the Judiciary. H.R. 5265. A bill for the relief of Terrill W. Ramsey (Rept. 102-848). Referred to the Committee of the Whole House.

Mr. BROOKS: Committee on the Judiciary. House Resolution 492. Resolution referring to the bill (H.R. 5426) for the relief of Bear Claw Tribe, Inc. to the chief judge of the U.S. Claims Court; with an amendment (Rept. 102-849). Referred to the Committee of the Whole House.

REPORTED BILLS SEQUENTIALLY REFERRED

Under clause 5 of rule X, bills and reports were delivered to the Clerk for printing, and bills referred as follows:

Mr. GONZALEZ: Committee on Banking, Finance and Urban Affairs. H.R. 3927. A bill to extend and revise rulemaking authority with respect to Government securities under the Federal securities laws, and for other purposes; with amendments; the amendments recommended by the Committee on Banking, Finance and Urban Affairs referred to the Committee on Ways and Means for a period ending not later than September 18, 1992, for consideration of such provisions of the amendments, as fall within the jurisdiction of that committee pursuant to clause 1(v), rule X (Rept. 102-722, pt. 2). Ordered to be printed.

Mr. BROOKS: Committee on the Judiciary. H.R. 4542. A bill to prevent and deter auto theft; with an amendment; referred to the Committee on Energy and Commerce for a period ending not later than September 19, 1992 for consideration of such provisions of the bill and amendment recommended by the Committee on the Judiciary as fall within the jurisdiction of that committee pursuant to clause 1(h), rule X (Rept. 102-851. pt. 1). Ordered to be printed.

SUBSEQUENT ACTION ON A REPORTED BILL SEQUENTIALLY REFERRED

Under clause 5 of rule X the following action was taken by the Speaker:

H.R. 3927. The amendments recommended by the Committee on Banking, Finance and Urban Affairs referred to the Committee on Ways and Means for a period ending not later than September 18, 1992, for consideration of such provisions of the amendments as fall within the jurisdiction of that committee pursuant to clause 1(v), rule X.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. ROE (for himself, Mr. MINETA, Mr. GEPHARDT, Mr. BONIOR, Mr. HAMMERSCHMIDT, Mr. SHUSTER, Mr. MICHEL, and Mr. GINGRICH):

H.R. 5830. A bill to expedite construction of highway projects which provide additional quality jobs; to the Committee on Public Works and Transportation.

By Mr. LAUGHLIN:

H.R. 5831. A bill to designate the Federal building located at 312 South Main Street in Victoria, TX, as the "Martin Luther King, Jr. Federal Building"; to the Committee on Public Works and Transportation.

By Mr. EVANS (for himself, Mr. MARTINEZ, Mr. COSTELLO, Ms. WATERS, Ms. LONG, and Mr. JONTZ):

H.R. 5832. A bill to amend title 38, United States Code, to require the Secretary of Veterans Affairs to establish a Persian Gulf War Health Registry; to the Committee on Veterans' Affairs.

By Mr. LAROCCO:

H.R. 5833. A bill to increase access to health care services for individuals in rural areas, and for other purposes; jointly, to the Committees on Energy and Commerce Ways and Means, and the Judiciary.

By Mr. EWING (for himself and Mr. JONTZ):

H.R. 5834. A bill to amend the Federal Crop Insurance Act to modify the provisions governing yield averages, to provide late planting and prevented planting coverage, and to authorize higher levels of coverage; to the Committee on Agriculture.

By Mr. ACKERMAN:

H.R. 5835. A bill to amend the Truth in Lending Act to limit unauthorized use of credit cards by discouraging theft of credit cards that are mailed; to the Committee on Banking, Finance and Urban Affairs.

By Mr. ALLEN (for himself, Mr. BLILEY, Mr. BATEMAN, Mr. WOLF, and Mr. PICKETT):

H.R. 5836. A bill to transfer title to certain lands in Shenandoah National Park in the State of Virginia, and for other purposes; to the Committee on Interior and Insular Affairs.

By Mr. ANDREWS of Maine:

H.R. 5837. A bill to provide universal access for all Americans to basic health care services and long-term care services; jointly, to the Committees on Energy and Commerce, Ways and Means, Education and Labor,

Rules, Armed Services, Veterans' Affairs, and Post Office and Civil Service.

By Mr. BLACKWELL:

H.R. 5838. A bill to prevent certain employers from using genetic information to deny employment opportunities; jointly, to the Committees on Education and Labor, Post Office and Civil Service, House Administration, and the Judiciary.

H.R. 5839. A bill to amend the Federal Food, Drug, and Cosmetic Act to require premarket approval of food derived from genetically modified plants; to the Committee on energy and Commerce.

By Mr. BROOKS (for himself and Mr. FRANK of Massachusetts):

H.R. 5840. A bill to reauthorize the independent counsel law for an additional 5 years, and for other purposes; to the Committee on the Judiciary.

By Mr. CARPER:

H.R. 5841. A bill to amend the Shipping Act of 1984 to make U.S. shippers more competitive in the global marketplace and to improve the financial well-being of U.S. ocean common carriers by allowing for direct negotiations between shippers and carriers, and for other purposes; to the Committee on Merchant Marine and Fisheries.

By Mr. CONYERS (for himself, Mr. KENNEDY, Mr. DELLUMS, Mr. HORTON, Mr. ABERCROMBIE, Mr. SPRATT, Mr. FORD of Tennessee, Ms. NORTON, Mr. SAVAGE, Mr. STOKES, Mr. ESPY, Mr. DYMALLY, Mr. OWENS of New York, Mr. RAVENEL, Mr. TALLON, Mr. RANGEL, Mr. PAYNE of New Jersey, Mr. TOWNS, Mr. BLACKWELL, Mr. PANETTA, Mr. SPENCE, Mr. WHEAT, Mr. DIXON, Mr. DE LUGO, Mr. TORRICELLI, Mrs. COLLINS of Michigan, Mr. VANDER JAGT, Mrs. PATTERSON, Mr. JACOBS, Mr. WASHINGTON, Mr. JEFFERSON, Mr. RITTER, and Mr. DERRICK):

H.R. 5842. A bill to award a congressional gold medal to John Birks "Dizzy" Gillespie; to the Committee on Banking, Finance and Urban Affairs.

By Mr. CONYERS:

H.R. 5843. A bill to provide that elections for President, Senators, and Members of the Congress be held on Saturday; to the Committee on House Administration.

By Mr. DINGELL (for himself and Mr. TRAXLER):

H.R. 5844. A bill to amend the Agricultural Act of 1949 to compute farm program payment yields based on actual yields, and for other purposes; to the Committee on Agriculture.

By Mr. DORGAN of North Dakota:

H.R. 5845. A bill to establish goals for the award of Federal procurement contracts to rural business concerns, and for other purposes; to the Committee on Government Operations.

By Mr. DOWNEY (for himself, Mr. MILLER of California, Mr. WILLIAMS, and Mr. MATSUI):

H.R. 5846. A bill to increase the number of weeks for which emergency unemployment compensation is payable, and for other purposes; jointly, to the Committee on Ways and Means, Education and Labor, and Energy and Commerce.

By Mr. DOWNEY:

H.R. 5847. A bill to amend the Internal Revenue Code of 1986 to clarify the exemption for student nurses from Social Security and unemployment taxes; to the Committee on Ways and Means.

By Mr. ENGEL:

H.R. 5848. A bill to prohibit a rental car company from charging a surcharge or fee in a rental agreement for a vehicle based on the residence of the renter; to the Committee on Energy and Commerce.

By Mr. GEKAS:

H.R. 5849. A bill to amend title 28, United States Code, to authorize the office of independent counsel, and for other purposes; to the Committee on the Judiciary.

By Mr. HALL of Texas (for himself, Mr. MCCURDY, and Mr. CUNNINGHAM):

H.R. 5850. A bill to amend the Fair Labor Standards Act of 1938 to ensure that inmates are not treated as employees for purposes of such act; to the Committee on Education and Labor.

By Mr. HORTON (for himself and Mr. CONYERS):

H.R. 5851. A bill to establish the Commission on Information Technology and Paperwork Reduction; to the Committee on Government Operations.

By Mr. HUCKABY (for himself and Mr. ROSE):

H.R. 5852. A bill to establish a 20-percent maximum broken kernel content limit for Public Law 480 rice shipments; jointly, to the Committees on Agriculture and Foreign Affairs.

By Mr. HUGHES:

H.R. 5853. A bill to designate segments of the Great Egg Harbor River and its tributaries in the State of New Jersey as components of the National Wild and Scenic Rivers System; to the Committee on Interior and Insular Affairs.

By Mr. HUNTER:

H.R. 5854. A bill to provide for uniformity of quality and a substantial reduction in the overall costs of health care in the United States through the development of diagnostic and treatment protocols and the implementation of the protocols in the program under title XVIII of the Social Security Act, the imposition of limitations on the amount of damages that may be paid in a health care liability action, and the mandatory establishment by States of alternative dispute resolution systems to resolve health care liability claims, and for other purposes; jointly, to the Committees on Ways and Means, Energy and Commerce, and the Judiciary.

By Mr. JOHNSON of South Dakota (for himself and Mr. DORGAN of North Dakota):

H.R. 5855. A bill to amend the Federal Meat Inspection Act to require that imported meat and meat food products containing imported meat be labeled imported, and to require that certain eating establishments serving imported meat inform customers of that fact; to the Committee on Agriculture.

By Mr. JOHNSON of South Dakota (for himself and Mr. MILLER of California and Mr. OWENS of Utah):

H.R. 5856. A bill to authorize the establishment of the Chief Big Foot National memorial Park and the Wounded Knee National Memorial in the State of South Dakota, and for other purposes; to the Committee on Interior and Insular Affairs.

By Mr. KOSTMAYER:

H.R. 5857. A bill to provide for standards for the cleanup of domestic nuclear energy industry facilities and other radiologically contaminated sites; jointly, to the Committees on Energy and Commerce and Interior and Insular Affairs.

By Mr. LAFALCE:

H.R. 5858. A bill to amend the Stevenson-Wydler Technology Innovation Act of 1980 to establish the National Quality Commitment Award with the objective of encouraging American universities to teach total quality management, to emphasize the importance of process manufacturing, and for other purposes; to the Committee on Science, Space, and Technology.

By Mr. MACHTLEY:

H.R. 5859. A bill to amend the Fair Credit Reporting Act to prohibit the inclusion of certain information in files and credit reports relating to consumers; to the Committee on Banking, Finance and Urban Affairs.

H.R. 5860. A bill to direct the Secretary of the Army to make a grant to the city of Pawtucket, RI, for replacement and repair of the city's water transmission system; to the Committee on Public Works and Transportation.

By Mr. MANTON:

H.R. 5861. A bill to amend the Truth in Lending Act to limit the unauthorized use of credit cards and the theft of credit cards and other mail from Postal Service facilities; jointly, to the Committees on Banking, Finance and Urban Affairs and the Judiciary.

By Mr. MANTON (for himself and Ms. MOLINARI):

H.R. 5862. A bill to amend title I of the Omnibus Crime Control and Safe Streets Act of 1968 to ensure an equitable and timely distribution of benefits to public safety officers; to the Committee on the Judiciary.

By Mr. MANTON:

H.R. 5863. A bill to amend title I of the Marine Protection Research, and Sanctuaries Act of 1972 to ensure that land-based management alternatives for sewage sludge are protective of human health and the environment; jointly, to the Committees on Merchant Marine and Fisheries, Public Works and Transportation, and Energy and Commerce.

By Mr. MONTGOMERY (for himself, Mr. STUMP, Mr. APPLEGATE, Mr. HAMMERSCHMIDT, Mr. EDWARDS of California, Mr. WYLIE, Mr. PENNY, Mr. STAGGERS, Mr. SMITH of New Jersey, Mr. ROWLAND, Mr. BURTON of Indiana, Mr. SLATTERY, Mr. BILIRAKIS, Mr. HARRIS, Mr. RIDGE, Mrs. PATTERSON, Mr. JAMES, Mr. SANGMEISTER, Mr. STEARNS, Mr. JONES of Georgia, Mr. PAXON, Ms. LONG, Mr. SPENCE, Mr. EDWARDS of Texas, Mr. NICHOLS, Mr. BREWSTER, Mr. SANTORUM, Mr. GEREN of Texas, Mr. CLEMENT, Mr. PICKETT, Mr. BLAZ, and Mrs. MORELLA):

H.R. 5864. A bill to amend title 38, United States Code, to direct the Secretary of Veterans Affairs to establish and maintain a Persian Gulf War Veterans Registry; to the Committee on Veterans' Affairs.

By Mr. MOODY (for himself and Mr. RIDGE):

H.R. 5865. A bill to prohibit the use of appropriated funds to adjust the 1990 decennial census or any intercensal estimates by the Bureau of the Census of the U.S. Department of Commerce; to the Committee on Post Office and Civil Service.

H.R. 5866. A bill to amend title 13, United States Code, to require the Secretary of Commerce to notify the Senate and House of Representatives about changes in the methodology for producing numbers used in any Federal funding formula; to the Committee on Post Office and Civil Service.

By Mr. MOODY:

H.R. 5867. A bill to amend title XVIII of the Social Security Act to require as a condition of participation in the Medicare Program that hospitals disclose the costs incurred by the hospital in providing services to patients; to the Committee on Ways and Means.

By Mr. MRAZEK (for himself, Mr. BERMAN, Mr. CONYERS, Mr. FEIGHAN, Mr.

FRANK of Massachusetts, Mr. BRYANT, Mr. BEILENSON, Mr. FROST, Mr. MILLER of California, Mrs. MINK, Mr. SERRANO, Mr. SHAYS, Mrs. LOWEY of New York, Mr. KOSTMAYER, Mr. HOCHBRUECKNER, Mr. ABERCROMBIE, Mr. KOPETSKI, Mr. DURBIN, and Mr. ATKINS):

H.R. 5868. A bill to amend the act entitled "An act to provide for the registration and protection of trademarks used in commerce, to carry out the provisions of certain international conventions, and for other purposes", enacted July 5, 1946 (commonly known as the Lanham Act), to require certain disclosures relating to materially altered films; to the Committee on the Judiciary.

By Mr. MURPHY:

H.R. 5869. A bill to authorize the Secretary of the Interior to acquire certain real property in Fayette County, PA, Monongalia County, WV, and Preston County, WV; to the Committee on Interior and Insular Affairs.

By Ms. NORTON:

H.R. 5870. A bill to require the Administrator of General Services, the Director of the National Park Service, the Architect of the Capitol, and the Secretary of the Smithsonian Institution to provide notice to the District of Columbia before carrying out any activity affecting property located in the District of Columbia, and for other purposes; jointly, to the Committee on Interior and Insular Affairs, Public Works and Transportation, House Administration, and the District of Columbia.

By Ms. OAKAR:

H.R. 5871. A bill to provide for more effective use of U.S. contributions to the International Monetary Fund, to provide for a U.S. contribution to the International Finance Corporation, and for other purposes; to the Committee on Banking, Finance and Urban Affairs.

H.R. 5872. A bill to require the Secretary of the Treasury to mint coins in commemoration of women who have served in the Armed Forces of the United States; to the Committee on Banking, Finance and Urban Affairs.

H.R. 5873. A bill to provide for more effective use of U.S. contributions to the International Monetary Fund; to the Committee on Banking, Finance and Urban Affairs.

By Mr. ORTIZ:

H.R. 5874. A bill to establish a wetlands center at the Port of Brownsville, TX, and for other purposes; to the Committee on Merchant Marine and Fisheries.

By Mr. PALLONE (for himself, Mr. FROST, and Mr. HERTEL):

H.R. 5875. A bill to establish the National Environmental Sciences and Technology Agency, and for other purposes; to the Committee on Science, Space, and Technology.

By Ms. PELOSI:

H.R. 5876. A bill to assist the States in the enactment of legislation to address the criminal act of stalking; to the Committee on Judiciary.

By Ms. PELOSI (for herself, Mr. MINETA, Mr. BERMAN, Mrs. BOXER, Mr. CONYERS, Mr. EDWARDS of California, Mr. GILMAN, Mr. LANTOS, Mr. SOLARZ, Mr. ABERCROMBIE, Mr. ACKERMAN, Mr. ANDERSON, Mr. ANDREWS of New Jersey, Mr. BORSKI, Mr. BUSTAMANTE, Mr. CUNNINGHAM, Mr. DE LUGO, Mr. EVANS, Mr. FOGLIETTA, Mr. HORTON, Mr. HUNTER, Mr. KOSTMAYER, Mr. LANCASTER, Mr. MATSUI, Mr. MILLER of California, Mrs. MINK, Ms. NORTON, Mr. PANETTA, Mr. RANGEL, Mr. ROYBAL, Mr. SHARP, Mr. SPENCE, Mr. STARK, Mr. TORRES, Mr. TOWNS, Mr. WAXMAN, and Mr. WELDON):

H.R. 5877. A bill to extend the deadline for applying for naturalization of certain Filipino veterans of World War II, and for other purposes; to the Committee on the Judiciary.

By Mr. PETRI:

H.R. 5878. A bill to amend the Higher Education Act of 1965 to encourage lifelong learning by permitting students attending a program of postsecondary education on a less than half-time basis to receive Federal family education loans, and authorizing the Student Loan Marketing Association to originate loans to enable students to borrow up to $25,000 under a lifelong learning line of credit for education and job training that shall be repaid based on the borrower's ability to pay, and for other purposes; to the Committee on Education and Labor.

By Mr. RAHALL:

H.R. 5879. A bill to amend title 38, United States Code, to authorize accelerated payments for short-term, high-cost courses taken by veterans pursuing postsecondary education, and for other purposes; to the Committee on Veterans' Affairs.

By Mr. RAMSTAD (for himself and Mr. BILBRAY):

H.R. 5880. A bill to amend the Small Business Act to authorize small business concerns owned and controlled by individuals with disabilities to participate in business development programs established by that act, and for other purposes; to the Committee on Small Business.

By Mr. RITTER:

H.R. 5881. A bill to provide for the establishment and evaluation of performance standards and goals for expenditures in the Federal budget, and for other purposes; jointly, to the Committees on Government Operations and Rules.

By Mr. ROBERTS:

H.R. 5882. A bill to amend the Agricultural Act of 1949 to authorize the transfer of crop acreage base between program crops on a farm and the establishment of a farm program payment yield for the program crop receiving such base on behalf of producers adversely affected by an irrigation water shortage; to the Committee on Agriculture.

By Mr. SABO:

H.R. 5883. A bill to amend the Fair Labor Standards Act of 1938 to increase the minimum wage; to the Committee on Education and Labor.

By Mr. SARPALIUS:

H.R. 5884. A bill to amend title 23, United States Code, and the Intermodal Surface Transportation Efficiency Act of 1991 to repeal provisions establishing a national maximum speed limit; to the Committee on Public Works and Transportation.

By Mrs. SCHROEDER: (for herself, Mr. EVANS, Mrs. LLOYD, Ms. LONG, Mr. EDWARDS of California, and Mr. CARPER):

H.R. 5885. A bill to amend title 38, United States Code, to improve the care and services furnished to veterans who have experienced sexual trauma while on active duty, to study the needs of such veterans, to expand and improve other Department of Veterans Affairs programs that provide care and services to women veterans, and for other purposes; to the Committee on Veterans' Affairs.

By Mr. SIKORSKI

H.R. 5886. A bill to reauthorize the Office of Special Counsel through fiscal year 1994; to the Committee on Post Office and Civil Service.

By Mr. SKAGGS (for himself, Mr. MORRISON, Mr. SCHIFF, Mrs. SCHROEDER, Mr. RICHARDSON, Mr. STARK, Mr. BUSTAMANTE, Mr. EVANS, Mr. SANDERS, Mr. JONTZ, Mr. STALLINGS, and Mrs. LLOYD):

H.R. 5887. A bill to provide health insurance benefits to certain former employees at defense nuclear facilities of the Department of Energy for injuries caused by exposure to ionizing radiation; to the Committee on Energy and Commerce.

By Mr. SMITH of Oregon:

H.R. 5888. A bill to amend the Klamath River Basin Fishery Resources Restoration Act to increase the number of members of the Klamath River Basin Fisheries Task Force; to the Committee on Merchant Marine and Fisheries.

By Ms. SNOWE:

H.R. 5889. A bill to make the Age Discrimination in Employment Act of 1967 applicable to the House of Representatives and the instrumentalities of the Congress, to give certain employees of the House of Representatives and the instrumentalities of the Congress the right to petition for judicial review for violations of certain laws and rules concerning civil rights and employment practices, and for other purposes; jointly, to the Committees on House Administration, Education and Labor, and Rules.

By Mr. SOLARZ:

H.R. 5890. A bill to impose strict controls on the importation, transfer, transportation, manufacture, possession, and ownership of handguns; to the Committee on the Judiciary.

H.R. 5891. A bill to provide for community-based language training for U.S. foreign service officers, other U.S. Government officials, and State and local employees and voluntary workers providing important services to Spanish-speaking communities; jointly, to the Committees on Foreign Affairs and Education and Labor.

By Mr. STALLINGS (for himself and Mr. OWENS of Utah):

H.R. 5892. A bill to make applicable to the Congress certain laws relating to civil rights and employment practices; jointly, to the Committees on House Administration, Education and Labor, and Government Operations.

By Mr. STARK:

H.R. 5893. A bill to amend the Public Health Service Act to establish a National AIDS Vaccine Development and Compensation Program for the development of human immunodeficiency virus vaccines and a program to compensate the victims of human immunodeficiency virus vaccine-related injuries and deaths by establishing an AIDS Vaccine Injury Compensation Trust Fund, and for other purposes; jointly, to the Committees on Energy and Commerce and Ways and Means.

By Mr. STUDDS (for himself and Mr. NEAL of Massachusetts):

H.R. 5894. A bill to amend the Immigration Act of 1990 and the Immigration and Nationality Act with respect to the transition and permanent diversity immigrant programs; to the Committee on the Judiciary.

By Mr. STUDDS:

H.R. 5895. A bill to provide for the establishment of the National Environmental Business Foundation to encourage and promote opportunities for the U.S. private sector to provide environmental technology (including marine biotechnology), education and training, and other assistance to developing countries; jointly, to the Committees on Foreign Affairs and Merchant Marine and Fisheries.

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By Mr. STUDDS (for himself and Mr. MOAKLEY):

H.R. 5896. A bill to reduce the harbor maintenance tax, amend its applicability and enhance its enforcement; jointly, to the Committees on Ways and Means and Public Works and Transportation.

By Mr. THOMAS of California:

H.R. 5897. A bill to amend title XVI of the Social Security Act to institute certain reforms relating to representative payees and to the provision of supplemental security income benefits to the disabled based on substance abuse, and for other purposes; jointly, to the Committees on Energy and Commerce and Ways and Means.

By Mr. THOMAS of Georgia:

H.R. 5898. A bill to amend Public Law 874, 81st Congress, to provide for increased payments in lieu of taxes to certain school districts bisected by Federal installations; to the Committee on Education and Labor.

By Mr. THOMAS of Wyoming:

H.R. 5899. A bill to provide for a water purchase contract by Kirby Ditch Irrigation District and by Bluff Irrigation District in the State of Wyoming; to the Committee on Interior and Insular Affairs.

By Mr. PEASE (for himself, Mr. STARK, Mr. MATSUI, Mr. COYNE, Mr. ECKART, Mr. FEIGHAN, Ms. KAPTUR, Mr. KILDEE, Ms. OAKAR, Mr. SAWYER, and Mr. STOKES):

H.R. 5900. A bill to provide a comprehensive program of adjustment assistance to workers adversely affected by import competition or the relocation of U.S. production facilities abroad; to the Committee on Ways and Means.

By Mr. THOMAS of Wyoming:

H.R. 5901. A bill to authorize the Secretary of the Interior to transfer to the Goshen Irrigation District, WY, certain lands and irrigation structures relating to the Fort Laramie Division of the North Platte Project; to the Committee on Interior and Insular Affairs.

By Mr. TORRICELLI:

H.R. 5902. A bill to establish Federal, State, and local programs for the investigation, reporting and prevention of bias crimes; to the Committee on the Judiciary.

By Mr. TOWNS:

H.R. 5903. A bill to provide grants to reduce the number of homicides and the incidents of violence by students, ages 13 to 21, and for other purposes; jointly, to the Committees on Education and Labor and the Judiciary.

By Mrs. UNSOELD:

H.R. 5904. A bill to establish a National Shellfish Safety Program; jointly, to the Committees on Energy and Commerce and Merchant Marine and Fisheries.

By Mr. VENTO:

H.R. 5905. A bill to provide additional funding to the Resolution Trust Corporation, to make necessary improvements in the operation of such Corporation, and for other purposes; to the Committee on Banking, Finance and Urban Affairs.

By Mr. VENTO (for himself and Mr. LAGOMARSINO):

H.R. 5906. A bill to direct the Secretary of the Interior to exchange certain lands with the District of Columbia and to regulate advertising and related commercial activities in the National Park System, and for other purposes; to the Committee on Interior and Insular Affairs.

By Ms. WATERS:

H.R. 5907. A bill to amend the Public Health Service Act to provide for the conduct of expanded research and the establishment of innovative programs and polices with respect to traumatic brain injury, and for other purposes; jointly, to the Committees on Energy and Commerce and Post Office and Civil Service.

By Mr. WILLIAMS:

H.R. 5908. A bill to allow certain gaming activities to be conducted on Indian lands in the State of Montana for a 1-year period; to the Committee on Interior and Insular Affairs.

By Mr. WYDEN:

H.R. 5909. A bill to amend the Child Nutrition Act of 1966 to enhance competition among infant formula manufacturers and to reduce the per unit cost of infant formula for the special supplemental food program for women, infants, and children [WIC], and for other purposes; to the Committee on Education and Labor.

By Mr. ABERCROMBIE (for himself and Mrs. MINK):

H.J. Res. 541. Joint resolution to acknowledge the 100th anniversary of the January 17, 1893, overthrow of the Kingdom of Hawaii, and to offer an apology to native Hawaiians on behalf of the United States for the overthrow of the Kingdom of Hawaii; to the Committee on Interior and Insular Affairs.

By Mr. BROWN (for himself, Mr. BATEMAN, Mr. HUBBARD, Mr. DE LUGO, Mr. TANNER, Mr. BACCHUS, Mr. ROEMER, Mr. MILLER of California, Mr. MORAN, Mr. HARRIS, Mr. PARKER, Mr. MAVROULES, Mr. QUILLEN, Mr. SMITH of New Jersey, Mr. HORTON, Mr. SAXTON, Mr. PETERSON of Florida, Mr. PACKARD, Mr. TORRES, Mr. MONTGOMERY, Mr. HUCKABY, Mr. BILIRAKIS, Mr. LAGOMARSINO, Mr. WILSON, Mrs. MINK, Mr. KOLTER, Mr. MCCANDLESS, Mr. ROYBAL, Mr. BUSTAMANTE, Mr. HEFNER, Mr. KOPETSKI, Mr. SANGMEISTER, Mr. MCMILLEN of Maryland, Ms. NORTON, Mr. HAMMERSCHMIDT, Mr. HAYES of Illinois, Mr. DOWNEY, Mr. SWETT, Ms. LONG, Mr. SPENCE, Mr. TOWNS, Mr. CLINGER, Mr. ERDREICH, Mr. MCGRATH, Mr. SOLARZ, Mr. PAYNE of New Jersey, Mr. HASTERT, Mr. SISISKY, Mr. WEISS, Mr. GUARINI, Mrs. LLOYD, Mr. PALLONE, Mr. WHITTEN, Mr. GONZALEZ, Mr. EVANS, Mr. LIPINSKI, Mr. FROST, Mr. ROE, Mr. COLEMAN of Texas, Mr. DE LA GARZA, Mr. LEHMAN of California, Mr. JENKINS, Mr. RHODES, Mr. LAFALCE, Mr. BONIOR, Mr. ANDREWS of Maine, Ms. HORN, and Mr. HATCHER):

H.J. Res. 542. Joint resolution designating the week beginning November 8, 1992, as "Hire a Veteran Week"; to the Committee on Post Office and Civil Service.

By Mr. FAZIO:

H.J. Res. 543. Joint resolution designating November 30, 1992, through December 6, 1992, as "National Education First Week"; to the Committee on Post Office and Civil Service.

By Mr. LEWIS of Georgia:

H.J. Res. 544. Joint resolution designating the week beginning February 7, 1993, as "Lincoln Legacy Week"; to the Committee on Post Office and Civil Service.

By Mr. MCCRERY:

H.J. Res. 545. Joint resolution proposing an amendment to the Constitution of the United States to provide for the limitation of service in the Congress; to the Committee on the Judiciary.

By Ms. MOLINARI (for herself, Ms. SNOWE, Mr. ESPY, Ms. LONG, Mr. KOPETSKI, Mr. MCMILLEN of Maryland, Mr. RITTER, Mr. GORDON, Mr. SANDERS, Mr. LENT, Mr. GONZALEZ, Mr. HEFNER, Ms. PELOSI, Mr. HORTON, Mr. NATCHER, Mr. STAGGERS, Mr. HUBBARD, Mr. MCNULTY, Mr. KASICH, Mrs. KENNELLY, Mr. ANDREWS of New Jersey, Mr. ACKERMAN, Mr. WALSH, Mr. OBERSTAR, Mr. ANDREWS of Maine, Mr. HANSEN, Mr. BLILEY, Mr. MONTGOMERY, Mr. STUDDS, Mr. JACOBS, Mr. GINGRICH, Mrs. UNSOELD, Mr. OXLEY, Mrs. MINK, Mr. SPRATT, Mr. TANNER, Mr. WOLF, Mr. HAYES of Illinois, Mr. ROE, Mrs. MORELLA, Mr. SMITH of Texas, Mr. PICKETT, Mr. MAZZOLI, Mr. SCHEUER, Mr. HUGHES, Mrs. VUCANOVICH, Mr. BATEMAN, Mr. BERMAN, Mr. BEVILL, Mr. BORSKI, Mr. BREWSTER, Mr. CLINGER, Mr. CLEMENT, Mr. STOKES, Mr. GUARINI, Mr. DICKS, Mr. CARDIN, Mr. DONNELLY, Mr. DWYER of New Jersey, Mr. ECKART, Mr. BUSTAMANTE, Mr. LAGOMARSINO, Mr. DELLUMS, Mr. ATKINS, Mr. FAZIO, Mr. FALEOMAVAEGA, Mr. FISH, Mr. FROST, Mr. GEJDENSON, Mr. GILCHREST, Mr. HAMILTON, Mr. SERRANO, Mr. HARRIS, Mr. HOCHBRUECKNER, Mr. HOYER, Mr. HYDE, Mr. LEHMAN of Florida, Mr. GEKAS, Mr. LANTOS, Mr. EDWARDS of Texas, and Mr. HAMMERSCHMIDT):

H.J. Res. 546. Joint resolution designating February 4, 1993, and February 3, 1994, as "National Women and Girls in Sports Day"; to the Committee on Post Office and Civil Service.

By Mr. RITTER (for himself, Mr. ANDERSON, Mr. ANNUNZIO, Mr. BILIRAKIS, Mr. BLACKWELL, Mr. BORSKI, Mr. BOUCHER, Mr. BUSTAMANTE, Mr. CALLAHAN, Mr. CARPER, Mr. CLEMENT, Mr. CLINGER, Mr. COLORADO, Mr. CONYERS, Mr. COUGHLIN, Mr. DE LUGO, Mr. DIXON, Mr. DOOLITTLE, Mr. DORNAN of California, Mr. DYMALLY, Mr. EMERSON, Mr. ENGEL, Mr. ESPY, Mr. EVANS, Mr. FALEOMAVAEGA, Mr. FAWELL, Mr. FISH, Mr. FROST, Mr. GEKAS, Mr. GILCHREST, Mr. GINGRICH, Mr. GONZALEZ, Mr. GOODLING, Mr. GUARINI, Mr. GUNDERSON, Mr. HALL of Ohio, Mr. HAMMERSCHMIDT, Mr. HANSEN, Mr. HATCHER, Mr. HAYES of Illinois, Mr. HAYES of Louisiana, Mr. HERTEL, Mr. HOCHBRUECKNER, Ms. HORN, Mr. HORTON, Mr. HOYER, Mr. HUBBARD, Mr. HYDE, Mr. JACOBS, Mrs. JOHNSON of Connecticut, Mr. JONES of North Carolina, Mr. KASICH, Mr. KOLTER, Mr. LAFALCE, Mr. LEHMAN of Florida, Mr. LENT, Mr. LEWIS of Florida, Mr. LIPINSKI, Mr. LIVINGSTON, Mr. MACHTLEY, Mr. MANTON, Mr. MCDADE, Mr. MCDERMOTT, Mr. MCGRATH, Mr. MCHUGH, Mr. MCMILLEN of Maryland, Mr. MURPHY, Mr. MURTHA, Mr. OWENS of New York, Mr. PAYNE of New Jersey, Mr. PERKINS, Mr. PETRI, Mr. STALLINGS, Mr. TOWNS, Mr. WELDON, and Mr. WOLF):

H.J. Res. 547. Joint resolution designating May 2, 1993, through May 8, 1993, as "National Walking Week"; to the Committee on Post Office and Civil Service.

By Mrs. SCHROEDER (for herself, Mrs. LLOYD, Mr. DELLUMS, Mr. FOGLIETTA, Mr. HERTEL, Mr. HANSEN, Mr. SPRATT, Mr. MCCLOSKEY, Mrs. BOXER, Mr. EVANS, Mr. BUSTAMANTE, Mr. BLAZ, Mr. LANCASTER, Mr. BILBRAY, Mr. HOCHBRUECKNER, Mr. WELDON, Mr. KYL, Mr. RAVENEL, Mr. BROWDER, Mr. ABERCROMBIE, Mr. MACHTLEY, and Mr. ANDREWS of Maine):

H. Con. Res. 359. Concurrent resolution expressing the sense of the Congress regarding the elimination of sexual harassment and

sexual assault in the Armed Forces; to the Committee on Armed Services.

By Mr. JONTZ:

H. Res. 556. Resolution exercising the right of the House of Representatives to change the rules of the House of Representatives with respect to the "fast track" procedures for trade implementation bills; to the Committee on Rules.

By Mr. SAWYER (for himself, Mr. HAMILTON, Mr. SOLARZ, Mr. BERMAN, Mr. FEIGHAN, Mr. WEISS, Mr. OWENS of Utah, and Mr. HOYER):

H. Res. 557. Resolution concerning the plight of refugees and displaced persons in the former Yugoslav republic; to the Committee on Foreign Affairs.

By Mr. THOMAS of Georgia (for himself, Mr. SCHULZE, Mr. TAYLOR of North Carolina, Mr. PAXON, Mr. HEFNER, Mr. SPENCE, Mr. YOUNG OF ALASKA, Mr. SOLOMON, Mr. HANCOCK, Mr. GALLO, Mr. KOLTER, and Mr. TANNER):

H. Res. 558. Resolution congratulating Launi Meili and Bob Foth on their outstanding achievements in smallbore rifle 3-position competitions at the 1992 summer Olympic games; to the Committee on Post Office and Civil Service.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII,

Mr. JAMES introduced a bill (H.R. 5910) to clear impediments to the issuance of documentation for the vessel *Cherokee*; which was referred to the Committee on Merchant Marine and Fisheries.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 44: Mr. GEJDENSON, Mr. MOODY, Mr. MCMILLEN of Maryland, Mr. SPRATT, Mr. DICKINSON, Mr. BRYANT, Mr. COLORADO, Mr. ATKINS, Mr. DUNCAN, Mr. FALEOMAVAEGA, Mr. CONDIT, Mr. GILLMOR, Mr. SOLARZ, Mr. HOYER, Mr. BEVILL, and Mr. CHAPMAN.

H.R. 53: Mr. CALLAHAN.

H.R. 299: Mr. LEWIS of Florida and Mr. HASTERT.

H.R. 301: Mr. GEREN of Texas.

H.R. 520: Mr. GEJDENSON.

H.R. 576: Mr. TAYLOR of North Carolina.

H.R. 700: Mr. MACHTLEY.

H.R. 780: Mr. RICHARDSON.

H.R. 784: Mr. SHARP.

H.R. 911: Mr. HOBSON and Mr. TORRICELLI.

H.R. 1065: Mr. ACKERMAN.

H.R. 1167: Mr. BUSTAMANTE, Mr. MCCANDLESS, Mr. QUILLEN, Mr. TOWNS, Mr. SCHIFF, and Mr. LIPINSKI.

H.R. 1200: Mr. HASTERT.

H.R. 1900: Mr. SIKORSKI.

H.R. 2140: Mr. BLACKWELL.

H.R. 2164: Mr. KOPETSKI, Mr. HUGHES, Mr. PETERSON of Florida, Mr. MAZZOLI, Mr. NEAL of Massachusetts, Mr. DARDEN, and Mr. EDWARDS of Texas.

H.R. 2248: Mr. SISISKY, Mr. MAVROULES, and Mr. HOBSON.

H.R. 2362: Mr. CAMP.

H.R. 2385: Mr. GILCHREST.

H.R. 2595: Mr. HASTERT.

H.R. 2772: Mr. SLATTERY.

H.R. 2797: Mr. QUILLEN.

H.R. 2867: Mr. MRAZEK.

H.R. 3130: Mr. CHANDLER.

H.R. 3253: Mr. MATSUI and Mr. TOWNS.

H.R. 3373: Mr. COLEMAN of Texas.

H.R. 3441: Mr. KLUG and Mr. HASTERT.

H.R. 3450: Mr. FORD of Tennessee.

H.R. 3509: Mr. ANDREWS of Maine.

H.R. 3518: Mr. LEVINE of California and Mr. SAWYER.

H.R. 3545: Mr. SANTORUM.

H.R. 3561: Mr. THOMAS of California.

H.R. 3568: Mr. REED.

H.R. 3677: Mr. VISCLOSKY.

H.R. 3838: Mr. BRYANT and Mr. PACKARD.

H.R. 4045: Mr. ECKART and Mr. JOHNSTON of Florida.

H.R. 4053: Mr. FLAKE, Mr. FRANK of Massachusetts, Mr. MCCOLLUM, Mr. MCCLOSKEY, Mr. EVANS, Mr. BUNNING, Mr. DE LUGO, and Mr. BRYANT.

H.R. 4066: Mr. SIKORSKI.

H.R. 4097: Ms. MOLINARI.

H.R. 4159: Mr. RICHARDSON.

H.R. 4174: Mr. CRANE.

H.R. 4206: Mr. KILDEE.

H.R. 4271: Mr. MFUME.

H.R. 4280: Mr. SHAYS.

H.R. 4288: Mr. HASTERT.

H.R. 4333: Mr. BUSTAMANTE.

H.R. 4393: Mr. DOWNEY, Mr. JAMES, Mrs. LLOYD, Mr. MCCOLLUM, Mr. SPENCE, and Mr. UPTON.

H.R. 4406: Mr. BURTON of Indiana.

H.R. 4429: Mr. KOSTMAYER.

H.R. 4431: Mr. HORTON, Mr. TOWNS, Mr. LAGOMARSINO, and Mr. MCCANDLESS.

H.R. 4457: Mr. DIXON and Mr. CLAY.

H.R. 4501: Mr. GEREN of Texas.

H.R. 4542: Mrs. COLLINS of Illinois, Mr. STUDDS, and Mr. LEHMAN of California.

H.R. 4585: Mr. SMITH of Oregon.

H.R. 4620: Mr. ALLEN.

H.R. 4624: Mr. ALLEN.

H.R. 4645: Mr. ALLEN.

H.R. 4647: Mr. ALLEN.

H.R. 4649: Mr. ALLEN.

H.R. 4651: Mr. ALLEN.

H.R. 4655: Mr. ALLEN.

H.R. 4656: Mr. ALLEN.

H.R. 4657: Mr. ALLEN.

H.R. 4659: Mr. ALLEN.

H.R. 4660: Mr. ALLEN.

H.R. 4662: Mr. ALLEN.

H.R. 4663: Mr. ALLEN.

H.R. 4666: Mr. ALLEN.

H.R. 4667: Mr. ALLEN.

H.R. 4668: Mr. ALLEN.

H.R. 4669: Mr. ALLEN.

H.R. 4671: Mr. ALLEN.

H.R. 4673: Mr. ALLEN.

H.R. 4680: Mr. ALLEN.

H.R. 4683: Mr. ALLEN.

H.R. 4764: Mr. SCHAEFER and Ms. SLAUGHTER.

H.R. 4821: Mr. THOMAS of California.

H.R. 4836: Mr. INHOFE, Mr. GEREN of Texas, and Mr. PACKARD.

H.R. 4846: Mrs. BOXER.

H.R. 4965: Mr. TRAFICANT, Mr. ACKERMAN, Mr. KOPETSKI, and Mr. RINALDO.

H.R. 4966: Mr. TRAFICANT, Mr. ACKERMAN, Mr. KOPETSKI, and Mr. RINALDO.

H.R. 4967: Mr. TRAFICANT, Mr. ACKERMAN, Mr. KOPETSKI, and Mr. RINALDO.

H.R. 4968: Mr. TRAFICANT, Mr. ACKERMAN, Mr. KOPETSKI, and Mr. RINALDO.

H.R. 4969: Mr. TRAFICANT, Mr. ACKERMAN, Mr. KOPETSKI, and Mr. RINALDO.

H.R. 4983: Mr. GRANDY.

H.R. 5003: Mr. ALLEN.

H.R. 5016: Mr. ROE and Ms. MOLINARI.

H.R. 5037: Mr. ATKINS and Mr. ROE.

H.R. 5070: Mr. HERTEL and Mr. ANDREWS of Maine.

H.R. 5125: Mr. MFUME.

H.R. 5150: Mr. ORTON and Mr. ZELIFF.

H.R. 5156: Mrs. LOWEY of New York and Mr. STUDDS.

H.R. 5168: Mr. LIPINSKI.

H.R. 5170: Mr. SHAYS.

H.R. 5176: Mr. RANGEL.

H.R. 5198: Mr. GOODLING.

H.R. 5216: Mr. SANDERS, Mr. DICKS, and Mr. SOLARZ.

H.R. 5217: Mr. FOGLIETTA.

H.R. 5250: Mr. COSTELLO, Mr. LEWIS of Florida, and Mr. HUBBARD.

H.R. 5276: Mr. BEREUTER.

H.R. 5297: Mrs. MORELLA, Mr. GEJDENSON, Mr. EMERSON, Mr. DICKINSON, Mr. GALLO, Mr. BILIRAKIS, Mr. WILSON, Mr. ERDREICH, Mr. KOLBE, Mrs. BYRON, Ms. MOLINARI, Mr. ENGEL, Mr. THOMAS of California, Mr. JOHNSTON of Florida, Mr. KYL, Mr. SCHAEFER, and Mr. ANDREWS of Maine.

H.R. 5304: Mr. OLVER.

H.R. 5317: Ms. PELOSI.

H.R. 5321: Mr. MORAN, Mr. KOLBE, and Mr. GALLO.

H.R. 5340: Mr. LIVINGSTON, Mr. WALSH, Mr. STEARNS, Mr. KYL, Mr. LIPINSKI, and Mr. SCHIFF.

H.R. 5367: Mr. KOPETSKI, Mr. BONIOR, Mr. LEHMAN of California, and Mr. HERTEL.

H.R. 5374: Mrs. MORELLA, Mr. RAVENEL, and Mrs. BYRON.

H.R. 5393: Mr. HASTERT and Mr. HOAGLAND.

H.R. 5403: Mr. JOHNSON of South Dakota.

H.R. 5405: Ms. MOLINARI.

H.R. 5423: Mrs. JOHNSON of Connecticut and Mr. FRANKS of Connecticut.

H.R. 5424: Mr. ANDREWS of Maine.

H.R. 5451: Mr. BEREUTER, Mr. BREWSTER, Mr. CHAPMAN, Mr. DARDEN, Mr. DORGAN of North Dakota, Mr. JACOBS, Mr. MONTGOMERY, Mr. ORTON, Mr. OXLEY, Mr. PARKER, Mr. PETERSON of Minnesota, Mr. RAY, Mr. RINALDO, Mr. ROWLAND, Mr. SCHEUER, Mr. SYNAR, and Mr. THOMAS of Georgia.

H.R. 5478: Mr. DARDEN, Mrs. SCHROEDER, Mr. GORDON, and Mr. TALLON.

H.R. 5499: Mrs. SCHROEDER.

H.R. 5509: Mr. STUMP, Mr. LIGHTFOOT, Mr. MCCANDLESS, and Mr. DORNAN of California.

H.R. 5512: Mr. WALSH, Mr. HUNTER, Mr. JOHNSON of South Dakota, Mr. OXLEY, Mr. CLINGER, Mr. ATKINS, Mr. GILMAN, Mr. GEREN of Texas, Mr. LEVINE of California, Ms. NORTON, Mr. MFUME, Mr. TOWNS, and Mr. LEWIS of Florida.

H.R. 5521: Mr. BILIRAKIS.

H.R. 5531: Mr. JOHNSON of South Dakota, Mr. BLACKWELL, and Mr. FIELDS.

H.R. 5538: Mr. ATKINS, Mr. BRUCE, and Ms. KAPTUR.

H.R. 5542: Mr. LOWERY of California.

H.R. 5550: Mr. KLUG.

H.R. 5553: Mr. GEREN of Texas.

H.R. 5555: Mr. MCMILLAN of North Carolina.

H.R. 5559: Mr. MCMILLAN of North Carolina, Mr. ARMEY, Mr. DICKS, Mr. JACOBS, Mr. CLAY, Mr. COLEMAN of Texas, Mr. STALLINGS, Mr. JEFFERSON, Mr. BUSTAMANTE, Mr. CHANDLER, Mr. ANTHONY, Mr. DOOLEY, Mr. MCGRATH, Mr. BOEHNER, Mr. TOWNS, Mr. BONIOR, Mr. TRAXLER, Mr. HANSEN, and Ms. HORN.

H.R. 5572: Mr. ATKINS, Mr. FROST, Mr. WEISS, Mr. MONTGOMERY, Mr. EDWARDS of California, Mr. BATEMAN, Mr. CRAMER, Mr. TRAFICANT, Mr. ERDREICH, Mr. BLILEY, Mr. ENGEL, Mr. LENT, Mr. HOUGHTON, Mr. HAYES of Louisiana, Mrs. COLLINS of Michigan, Mr. CONYERS, Mr. DELLUMS, Mr. BEVILL, Mr. BROOMFIELD, Mr. DICKINSON, Mr. FORD of Tennessee, Mr. FRANK of Massachusetts, Mr. HASTERT, Mr. LAFALCE, Mr. LEHMAN of Florida, Mr. LEWIS of California, Mrs. LOWEY of New York, Mr. MANTON, Mr. MARTIN, Mr.

McDADE, Mr. McGRATH, Ms. OAKAR, Mr. RINALDO, Mr. SHAYS, Ms. SLAUGHTER, Mr. SOLOMON, Mr. SPENCE, Mr. SUNDQUIST, Mr. WELDON, Mr. WOLPE, and Mr. SAWYER.

H.R. 5580: Mr. WISE, Mr. PAYNE of Virginia, and Mr. FOGLIETTA.

H.R. 5596: Mr. EWING and Mr. SKEEN.

H.R. 5600: Mr. TORRES, Mr. ENGEL, Mr. MOLLOHAN, Mr. REED, and Mr. BENNETT.

H.R. 5610: Mr. MACHTLEY and Mr. FIELDS.

H.R. 5613: Mr. SERRANO and Mr. GEJDENSON.

H.R. 5665: Mr. MACHTLEY.

H.R. 5676: Mr. DOOLEY and Mr. NAGLE.

H.R. 5682: Mr. ROE, Mr. FROST, Mr. LANTOS, Mr. SHAW, and Mr. BENNETT.

H.R. 5699: Mr. KOLTER.

H.R. 5703: Mr. FIELDS, Mr. LAGOMARSINO, Mr. LEWIS of Florida, and Mr. THOMAS of California.

H.R. 5729: Mr. ZELIFF and Mr. SANTORUM.

H.R. 5732: Mr. ROYBAL, Mr. RICHARDSON, Mr. ORTIZ, Mr. CONYERS, Mr. TOWNS, Mr. FLAKE, Mr. PASTOR, Mr. MFUME, Mr. STOKES, Mr. TORRES, and Mr. DELLUMS.

H.R. 5743: Mr. BEREUTER, Mr. HUGHES, and Mr. LIPINSKI.

H.R. 5745: Mr. HUTTO, Mr. ZELIFF, Mr. MURPHY, and Mr. FROST.

H.R. 5747: Mr. FROST.

H.R. 5758: Mr. WOLPE, Mr. ECKART, Mr. SLATTERY, Mr. KOLTER, Mr. FRANK of Massachusetts, Mr. HASTERT, Mr. NOWAK, Mr. BLACKWELL, Mr. CONYERS, Mr. JONTZ, Ms. HORN, Mr. GEKAS, and Mr. LIPINSKI.

H.R. 5760: Mr. ESPY.

H.R. 5768: Mr. LIVINGSTON, Mr. ALLARD, Mr. SOLOMON, Mr. GEREN of Texas, and Mr. ZELIFF.

H.R. 5776: Mr. BLAZ, Mr. DE LA GARZA, and Mr. JACOBS.

H.R. 5790: Mr. CHAPMAN, Mr. VOLKMER, Mr. RAY, and Mr. SISISKY.

H.R. 5800: Mr. ANTHONY, Mr. JENKINS, Mr. RANGEL, Mr. BUNNING, Mr. SHAW, Mr. SUNDQUIST, Mr. CHANDLER, Mr. GRANDY, Mr. TRAFICANT, Mr. JACOBS, Mr. FORD of Tennessee, Mr. RUSSO, and Mr. MAZZOLI.

H.R. 5820: Mr. FRANK of Massachusetts, Ms. DELAURO, Mr. SOLARZ, and Mr. BUSTAMANTE.

H.J. Res. 19: Mr. SARPALIUS.

H.J. Res. 200: Mr. BILIRAKIS.

H.J. Res. 239: Mr. RICHARDSON.

H.J. Res. 325: Mr. SAXTON, Mr. ROSE, Mr. MORAN, Mr. HALL of Ohio, and Mr. WALSH.

H.J. Res. 378: Mr. ROSE, Mr. LAFALCE, and Ms. HORN.

H.J. Res. 380: Mr. HAYES of Illinois, Mr. LOWERY of California, Mr. KANJORSKI, Mr. MACHTLEY, MR. LEACH, Mr. FROST, Mr. MARKEY, Mr. COBLE, Mr. COX of California, Mr. MOORHEAD, Mr. BAKER, Mr. KOSTMAYER, Mr. FAZIO, Mr. DELLUMS, Mr. ORTON, and Mr. SHAYS.

H.J. Res. 393: Mr. FLAKE, Mr. OBEY, Mr. SHAYS, Mr. COSTELLO, Mr. HYDE, Mr. MICHEL, Mr. DYMALLY, Mr. YOUNG of Alaska, Mr. BEVILL, Mr. RHODES, Mr. CRAMER, Mr. GALLEGLY, Mr. HUTTO, Mr. PETERSON of Florida, Mr. MINETA, Mr. LEWIS of Florida, Mr. BENNETT, and Mr. HAMMERSCHMIDT.

H.J. Res. 399: Mr. WELDON, Mr. GILCHREST, Mr. MACHTLEY, Mr. CRAMER, Mr. HASTERT, Mr. THOMAS of Wyoming, Mr. ARMEY, Mr. SUNDQUIST, and Mr. HOLLOWAY.

H.J. Res. 400: Ms. KAPTUR, Mr. WAXMAN, Mr. ROYBAL, Ms. HORN, Mr. RAMSTAD, Mr. MOODY, Mr. TRAFICANT, Mr. KILDEE, Mr. COUGHLIN, Mr. KENNEDY, Mr. BORSKI, Mr. BACCHUS, Mrs. COLLINS of Illinois, Mr. MFUME, Mr. LEVINE of California, Mr. BRYANT, Mr. PASTOR, Mr. REED, Mr. SISISKY, Ms. OAKAR, Mr. RUSSO, Mr. MARTIN, Mr. MAZZOLI, Mr. MURPHY, Mr. NEAL of North Carolina, Mr. PAYNE of New Jersey, Mr. RAVENEL, Mr. SAVAGE, and Mr. YATRON.

H.J. Res. 409: Mr. BACCHUS, Mr. SABO, Mr. RUSSO, Mr. CLINGER, Mr. GUNDERSON, Mr. STENHOLM, Mr. HALL of Ohio, Mr. LIVINGSTON, Ms. KAPTUR, Mr. PICKLE, Mr. KOLTER, Mr. HALL of Texas, Ms. MOLINARI, Mr. ROHRABACHER, Mr. ANDREWS of Maine, Mr. LIGHTFOOT, Mrs. MEYERS of Kansas, Mr. MYERS of Indiana, Mr. ANDREWS of Texas, Mr. SYNAR, Mr. TORRICELLI, Mr. ANDERSON, Mr. RICHARDSON, Mr. WHITTEN, Mr. GREEN of New York, Mrs. LLOYD, Mr. ROTH, Mr. EDWARDS of Oklahoma, Mr. DIXON, Mr. KANJORSKI, Mr. PAXON, Mr. SCHEUER, Mr. BENNETT, Mr. DELAY, Mr. LEWIS of Florida, Mr. MCDERMOTT, Mr. ROWLAND, Mr. JACOBS, Mr. BEVILL, Mr. RAHALL, Mr. EMERSON, Mr. HANCOCK, Mrs. MORELLA, Mr. MCEWEN, Mr. DORNAN of California, Mr. HERGER, Mr. MILLER of Ohio, Mr. THOMAS of California, Mr. BORSKI, Mr. WOLF, Mr. SMITH of New Jersey, Mr. NOWAK, Mr. MCDADE, Mr. MARKEY, Mr. SAXTON, Mr. PETRI, Mr. MCCANDLESS, Mr. ASPIN, Mr. HERTEL, Mr. PAYNE of Virginia, Mr. SISISKY, Mr. GONZALEZ, Mr. PICKETT, Mr. VALENTINE, Mr. KILDEE, Mr. DUNCAN, Mr. YATES, Mr. INHOFE, Mr. PAYNE of New Jersey, Mr. SMITH of Florida, Mr. MILLER of California, Mr. CARPER, Mr. LAROCCO, Mr. DOOLEY, Mr. JONES of Georgia, Mr. FAZIO, Mrs. JOHNSON of Connecticut, Mr. GEJDENSON, Mr. VOLKMER, Mrs. LOWEY of New York, Mr. UPTON, Mr. MACHTLEY, Mr. BILIRAKIS, Mr. CRANE, Mr. WELDON, Mr. REED, Mr. VENTO, Mr. HOUGHTON, Mr. FRANK of Massachusetts, Mr. MORAN, Mr. WASHINGTON, Mr. ALLEN, Mr. SWIFT, Mr. PANETTA, Mr. WYLIE, Mr. DICKS, Ms. WATERS, Mr. MINETA, Mr. HUBBARD, Mr. SMITH of Oregon, Ms. SNOWE, Mr. SCHAEFER, Mr. ARMEY, Mr. WOLPE, Mr. PASTOR, Mr. CONYERS, Mr. COYNE, Mr. OLVER, Mr. DOWNEY, Mr. RAVENEL, Mr. GILLMOR, Mr. HOLLOWAY, Mr. DONNELLY, Mr. ROGERS, Mr. ABERCROMBIE, Mr. ENGEL, Mr. ESPY, Mr. BROWN, Mr. WYDEN, Mr. GAYDOS, Mr. EDWARDS of California, Mr. GALLEGLY, Mr. MOODY, Mr. BOUCHER, Mr. OBERSTAR, Mr. GIBBONS, Mr. BILBRAY, Mr. SCHUMER, Mr. MRAZEK, Mr. OXLEY, Mr. CALLAHAN, Mr. TAYLOR of Mississippi, Mr. GRANDY, Mr. HANSEN, Mr. FORD of Michigan, Mr. SMITH of Iowa, Mr. MCHUGH, Mr. SMITH of Texas, Mr. ANDREWS of New Jersey, Mr. BEILENSON, Mr. LEWIS of Georgia, Mr. JOHNSON of South Dakota, and Mr. WEISS.

H.J. Res. 431: Mr. GLICKMAN, Mr. JOHNSON of South Dakota, Mr. MARKEY, Mr. PORTER, Mr. LEACH, Mr. DUNCAN, Mr. ROE, Mr. CHANDLER, Mr. BILIRAKIS, Mr. WALSH, Mr. FORD of Michigan, Mr. OWENS of New York, and Mr. RUSSO.

H.J. Res. 440: Mr. SCHEUER.

H.J. Res. 450: Mrs. MINK.

H.J. Res. 455: Mr. TRAFICANT and Ms. KAPTUR.

H.J. Res. 458: Mrs. BENTLEY, Mr. BORSKI, Mr. CARR, Mr. CARDIN, Mr. DWYER of New Jersey, Mr. HOCHBRUECKNER, Mr. HOYER, Mr. JACOBS, Mr. JEFFERSON, Mr. LANCASTER, Mr. MCHUGH, Mr. MANTON, Mr. NATCHER, Mr. JOHNSON of South Dakota, Mr. OLIN, Mr. TANNER, and Mr. WHEAT.

H.J. Res. 463: Mr. BALLENGER, Mr. COYNE, Mr. ENGEL, Mr. GREEN of New York, Ms. HORN, Mr. HOYER, Mr. MILLER of Washington, Mr. RAMSTAD, Mr. RHODES, Mr. SCHEUER, Ms. SNOWE, Mr. MOORHEAD, and Mr. LAGOMARSINO.

H.J. Res. 467: Mr. KLECZKA, Mr. BILIRAKIS, Ms. WATERS, Ms. SLAUGHTER, Mr. LANCASTER, Mr. DIXON, Mr. ASPIN, Mr. AUCOIN, Mr. LEWIS of Florida, Ms. PELOSI, Mr. BATEMAN, Mr. DE LA GARZA, Mr. DYMALLY, Mr. NATCHER, Mr. MOAKLEY, Mr. GILLMOR, Mrs. BENTLEY, Mr. JEFFERSON, Mr. BALLENGER, Mr. CONYERS, Mr. BLILEY, Mr. HOCHBRUECKNER, Mr. DORGAN of North Dakota, Mr. SAXTON, Mr. LEHMAN of Florida, Mr. SPENCE, Mr. MCGRATH, Mr. MOODY, Mr. SCHAEFER, Mr. ROE, Mr. SARPALIUS, Mr. VOLKMER, Mr. LANTOS, Mr. HAMMERSCHMIDT, Mr. OLVER, Mrs. LOWEY of New York, Mr. MCHUGH, Mr. OBERSTAR, Mr. SAWYER, Mr. GEREN of Texas, Mrs. KENNELLY, Mr. WASHINGTON, Mr. ABERCROMBIE, Mrs. BOXER, Mrs. BYRON, Ms. DELAURO, Mr. EDWARDS of Texas, Mr. FRANK of Massachusetts, Mrs. UNSOELD, Mr. GEPHARDT, Mr. DOOLITTLE, Mr. TANNER, Mr. ARCHER, Mr. COOPER, Mr. CALLAHAN, Mr. SYNAR, Mr. CAMPBELL of Colorado, Mr. WHEAT, Mr. CLAY, Mr. BERMAN, Mr. CARDIN, Mr. CARPER, Mr. OBEY, Mr. CLINGER, Mr. RITTER, Mr. BONIOR, Mr. BROWN, Mr. HALL of Ohio, and Mr. RANGEL.

H.J. Res. 469: Mr. GEPHARDT, Mr. BLACKWELL, Mr. MARTINEZ, Mr. YOUNG of Florida, Mr. HAYES of Louisiana, Ms. WATERS, Mr. BRUCE, Mr. APPLEGATE, Mr. STAGGERS, Mrs. BENTLEY, Mr. JOHNSON of South Dakota, Mr. HOYER, Mr. BUNNING, Mr. COSTELLO, Mr. OBERSTAR, Mr. DICKS, Mr. WISE, Mr. MCHUGH, Mr. BROWN, Mr. LOWERY of California, Mr. FLAKE, Mr. GREEN of New York, Mr. KILDEE, Mr. MARTIN, Mr. ASPIN, and Mr. FOGLIETTA.

H.J. Res. 479: Mr. PICKETT and Mr. RAY.

H.J. Res. 520: Mr. ERDREICH and Mr. JOHNSON of South Dakota.

H.J. Res. 531: Mr. MRAZEK, Mr. DORGAN of North Dakota, Mr. HORTON, Mr. RANGEL, Mr. KOPETSKI, Mr. FROST, Mr. HALL of Ohio, and Mr. LEHMAN of Florida.

H. Con. Res. 12: Mr. PACKARD.

H. Con. Res. 180: Mr. JOHNSTON of Florida.

H. Con. Res. 223: Mr. FASCELL and Mr. JOHNSTON of Florida.

H. Con. Res. 298: Mr. AUCOIN, Mr. RAMSTAD, Mr. CARR, Mr. TOWNS, Mr. BACCHUS, and Mr. RAY.

H. Con. Res. 337: Mr. PETRI and Mr. SENSENBRENNER.

H. Con. Res. 344: Mr. HAYES of Illinois, Mr. MCNULTY, Mr. LIPINSKI, Mr. FROST, Mr. GILCHREST, Mr. EVANS, Mr. ATKINS, Mr. CONYERS, Mr. HAMILTON, Mr. DOWNEY, Mr. MAVROULES, Mr. LANCASTER, and Mrs. COLLINS of Illinois.

H. Con. Res. 347: Mr. PORTER and Mr. CUNNINGHAM.

H. Con. Res. 353: Mr. WOLPE, Mr. ATKINS, Mr. PANETTA, Mr. FROST, Mr. TALLON, Mr. ANDREWS of Maine, and Mr. TRAXLER.

H. Res. 272: Mr. MATSUI.

H. Res. 448: Mr. LEVINE of California and Mr. SAWYER.

H. Res. 490: Mr. GINGRICH, Mr. MCHUGH, and Mr. MORAN.

H. Res. 515: Mr. BACCHUS, Mr. GUARINI, Mr. HOCHBRUECKNER, and Mr. CARPER.

H. Res. 538: Mr. FROST, Mr. MCEWEN, Mr. OWENS of Utah, Mr. LIPINSKI, and Mr. JONES of Georgia.

DELETIONS OF SPONSORS FROM PUBLIC BILLS AND RESOLUTIONS

Under clause 4 of rule XXII, sponsors were deleted from public bills and resolutions as follows:

H.R. 1443: Ms. PELOSI.

AMENDMENTS

Under clause 6 of rule XXIII, proposed amendments were submitted as follows:

H.R. 4706

By Mr. COLLINS of Illinois:

—Page 3, strike out lines 11 through 15 and redesignate subsection (c) as subsection (b).

—Page 20, line 23, insert after the comma the following: "and within the authorization provided in section 101(a) of this Act,".

By Mr. McMILLAN of North Carolina:

—Page 3, strike out line 10 and insert in lieu thereof the following:

"(4) $43,278,800 for fiscal year 1994.".

SENATE—*Wednesday, August 12, 1992*

(Legislative day of Wednesday, August 5, 1992)

The Senate met at 9:30 a.m., on the expiration of the recess, and was called to order by the Honorable HERB KOHL, a Senator from the State of Wisconsin.

PRAYER

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

Let us pray:

In a moment of silence, let us remember several who are seriously ill: Walter Stevens, son of Senator STEVENS; Clare Domenici, daughter of Senator DOMENICI; Susan Kirkland of the staff of Senator HEFLIN; and Brett Hall, 11-year-old son of Congressman HALL.

God is our refuge and strength, a very present help in trouble.—Psalm 46:1.

Gracious Father in heaven, it is difficult for people in power to acknowledge weakness. Yet at times like this, their responsibility is very frustrating. The democratic system is slow and inefficient by its nature, requiring controversy, conflict, and compromise. And the work of those who legislate is never finished. Having done their best to address one problem, scores of others emerge, demanding instant attention. They are faced with the opposition endemic in democracy, relentless scrutiny by press and media, and constant criticism of the public, few of whom really understand how the Government works. In a sense, every constituent represents a self-interest, not to mention the pressure of lobbyists, corporations, associations, all demanding attention and favorable action. And the clock keeps ticking inexorably.

Gracious Father, help Your servants to realize Your love, Your understanding, Your availability, Your enabling, Your sufficiency whatever their situation. For Your glory and the welfare of the world. 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, August 12, 1992.

To the Senate:

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

ROBERT C. BYRD,
President pro tempore.

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

RESERVATION OF LEADER TIME

The ACTING PRESIDENT pro tempore. Under the previous order, the time for the two leaders is reserved for their use later in the day.

TAX ENTERPRISE ZONES ACT

The ACTING PRESIDENT pro tempore. The Senate will now resume consideration of H.R. 11, which the clerk will report.

The legislative clerk read as follows:

A bill (H.R. 11) to amend the Internal Revenue Code of 1986 to provide tax incentives for the establishment of tax enterprise zones, and for other purposes.

The Senate resumed consideration of the bill.

Pending:

(1) Metzenbaum-Rudman amendment No. 2931, to limit individuals eligible to use IRA deductions and simplified IRA's.

(2) Dole (for Packwood) amendment No. 2934 (to amendment No. 2931), to establish a credit for the purchase of a principal residence by a first-time home buyer.

The PRESIDING OFFICER (Mr. ROCKEFELLER). The Senator from Wisconsin.

Mr. KOHL. Mr. President, I ask permission to speak as if in morning business.

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

GUN CONTROL

Mr. KOHL. Mr. President, last Friday afternoon, a 15-year-old honor student named Alain Colaco was shot to death outside his Northwest Washington home during the middle of the afternoon. He was shot five times—once in the head, twice in the chest, once in the right arm and once in the buttocks. At the time of his death, he was mowing his lawn. He was not robbed; he was not assaulted; he had no previous relationship with the assailant, whose name was Sean Lee Qualls. It was a brutal, unprovoked act of violence. When homicide detectives asked Sean Lee Qualls why he shot Alain Colaco, he told them it was because he had an urge to do it.

Mr. President, this motive bears repeating: Sean Lee Qualls killed Alain Colaco simply because he had an urge to do it.

We all watched the family and friends of Alain Colaco on television. We all understood their grief, their loss, their feelings of helplessness. We all understood it because the sad truth is that similar tragedies occur across America on a regular basis.

And while we did not see or hear or read much about the family or friends of Sean Lee Qualls, we should feel saddened for them as well. Why? Because Sean Lee Qualls, a disturbed young man and drug abuser who should have never had a gun in the first place, is going to go to jail—as he should—for a very long time.

Mr. President, there is no panacea for the senseless violence: We all know that we need tougher laws; more police; more certainty of punishment. And, of course, nothing that we can do will every make Alain Colaco's family whole again. But there is a crucial step we can take now to reduce at least some of the carnage. We can enact the Brady bill.

Sadly, Brady is now caught in partisan wrangling over a more comprehensive anticrime proposal—legislation which each day seems less likely to ever become law. So I rise today for this single, fundamental reason: To pledge that when the Congress returns in September I will offer the Senate-passed version of the Brady bill as an amendment on the floor. I urge my colleagues to join me.

Mr. President, more than 15 months ago, the majority leader, AL GORE and I took the original Brady bill and combined it with the best elements of the so-called Staggers amendment. In brief, our compromise measure has three major components: A mandatory background check for all firearms purchases; a uniform 5-business-day waiting period for handgun buys that would remain in effect for at least 2½ years; and $100 million for States to upgrade their computerized criminal history records. The Mitchell-Kohl-Gore amendment enjoyed broad support: It was endorsed by both HOWARD METZENBAUM, who led the fight for Brady since its original introduction, as well as the minority leader. Our amendment passed the Senate by an overwhelming 67 to 32 margin more than a year ago.

Yet, Mr. President, during the same year—while Congress and the President remained at an impasse over the crime bill—firearms violence continued to rage in our cities and on our streets. In Killeen, TX, a troubled man named George Canard drove his truck into Luby's cafeteria, pulled out his semiautomatic, sprayed pistol fire at a lunchtime crowd, and killed 23 people.

At the University of Iowa, a deranged student, distraught over his failure to win an academic award, killed six people with a .38 caliber revolver. And last spring Los Angeles erupted, leaving more than 50 dead.

Indeed, it may be more dangerous to live in a major American city than to serve our country in a foreign war. Fewer than 300 Americans died during the Persian Gulf conflict, but 489 people were murdered last year right here in Washington, DC.

Mr. President, I still hold out some hope that in the next few months we can pass a broader anticrime package. And I have told Chairman BIDEN that I will work hard for such an agreement. But we should not sit still while criminals and drug traffickers continue to purchase much of their firepower over the counter. Instead, we should pass the Brady bill now—which continues to have the support of more than 90 percent of the American people.

Mr. President, my colleagues may believe that offering Brady as an amendment will be a fruitless gesture. Some may argue that we will never get cloture, while others may claim that the President will veto the bill in any event. But we need to do something soon to staunch the bloodshed. Mr. President, open your newspaper or turn on your TV and you will recognize this simple truth: Never has the need for the Brady bill been so pressing and the consequence of its absence so regrettable.

I thank the Chair. I yield the floor.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

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

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

Mr. ROCKEFELLER. I ask unanimous consent to be allowed to speak as if in morning business.

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

THE HEALTH INSURANCE INDUSTRY

Mr. ROCKEFELLER. Mr. President, today I rise to challenge a very key segment of our troubled health care system, the challenge to become part of the solution and stop being part of the horrendous problem. I am talking about the health insurance industry. In fact, I am hopeful that I am talking to the health insurance industry.

After reflecting on the status of our efforts to reform America's health care system, Mr. President, I think it is time to insist on some genuine help from an industry which can make an enormous difference in solving the health care crisis but up to this point has chosen to do the opposite.

I want to begin by describing some recent activities by the Health Insurance Association of America, the insurance industry trade association, that I find deeply disturbing.

Some of my colleagues may have seen their very slick ads on television and their newspaper ads.

The point of their ads seem to suggest that some force other than the health insurance industry is responsible for denying millions of Americans health insurance—when they change jobs, or because they are sick.

If you have not run into the ads already, you will. A lot of money, millions of dollars I guess, is being spent by the insurance industry to try to get your attention and influence your thinking.

Called "Is Anyone Listening to the Voters," this ad campaign does not tell viewers that it is funded by some of the very same companies that are denying insurance to people with preexisting conditions, or refusing to cover workers in a long list of industries which they deem risky.

While the insurance industry is trying to portray itself as responsive to voters, let me say very clearly and very emphatically that it is the health insurance industry which bears considerable responsibility for a wasteful and bloated health care system, a system that is leaving millions of our citizens without any coverage.

Mr. President, I listen to the voters every day, as is the Presiding Officer, and this is what they really have to say. They are tired of dealing with endless mounds of paperwork, tired of fine print and clever loopholes, and tired of endless battles with agents and insurance bureaucrats, just to get the most basic claims paid.

They are frustrated with a private health insurance industry that is making huge profits while capriciously denying coverage to millions of small business people in this country and individual families.

They are appalled that just when their family most needs their health insurance, their premiums are doubled, tripled, or their coverage canceled outright. They thought insurance was about managing risk, not avoiding it.

I am talking to voters constantly, as is the Presiding Officer, and they tell me they want a change in our health care system, and they want the Federal Government to do whatever it takes to guarantee that all Americans have affordable health care insurance. They want an end to cost shifting and a reduction in medical inflation rates that run three to four times higher than the ordinary inflation rate.

Mr. President, the American voters are crying out desperately for leadership on a national problem that is bankrupting families, small businesses, and government at all levels. That leadership needs to come from the President of the United States, and it needs to come from us in Congress, but it also should come from every single part of the health care system. The health insurance industry should take a totally different approach to this crisis. They should stop blaming everybody else and take their seat at the table where health care reform is being honestly discussed.

Look at what is happening in States across this country, Mr. President. In an attempt to preempt Federal legislation, health insurers have vigorously lobbied State legislatures for passage of so-called bare bones or no frills health insurance policies. A bare bones health insurance policy, Mr. President, provides extremely limited coverage. For example, just a few days in a hospital, a couple of physician visits a year, along with hefty deductibles and hefty premiums. These policies may be fine if you are young and are never sick. But they are absolutely worthless if you need major surgery, if you get cancer, or if you are hit by a car.

Bare bones policies, Mr. President, try to lower health insurance premiums by cutting back on workers' health benefits, rather than by cutting red tape, cutting back on agent commissions or, for heaven's sakes, even cutting into company profits. There is no evidence of any real interest in these bare bone policies. No one buys them. So I wonder what voters are the insurance association people listening to.

Two and a half years ago, Mr. President, the Pepper Commission, which I had the honor to chair, recommended small group insurance reform as a key component of a reform plan that relies on our current job basing system. In fact, it was one issue on which the Pepper Commission, which had a lot of controversy, agreed to unanimously. There was not a single dissenting vote on small group health insurance reform.

Since that time, the abusive insurance practices have worsened. Medical underwriting has become even more insidious. Insurance investigators are digging even more deeply into a person's past medical history in order to dig up anything, anything, that would allow them to deny health insurance coverage. Millions of American families have had the rug literally pulled out from under them in the midst of a medical crisis, Mr. President.

The insurance industry has come forward acknowledging problems. In fact, the insurance industry, full of self congratulations, has even offered their own proposals for reform. But close inspection of the insurance industry's proposal for reform reveals a health reform plan that fails to meet any reasonable standard for a stable and secure health care system.

Under their proposal, premiums would still be set based on a person's

age, on a person's sex, adjusted as much as 108 percent for health status, and 15 percent for industry.

When I talk about a preexisting condition, Mr. President, I am talking about somebody who might have had cancer 10 years ago but who is in remission, who is perfectly healthy, whose cancer is entirely gone, but because they had a preexisting condition, no matter how much money they have, they cannot buy health insurance through the private insurance market.

According to the Congressional Research Service premiums could continue to vary under the HIAA's so-called reform plan by as much as 1,800 percent. While the insurance industry has proposed banning some of the most flagrantly abusive insurance practices, for the most part, it would still be strictly business as usual.

Mr. President, I have spent a great deal of time meeting with various parties interested in reforming our health care system. I have warned hospitals and doctors that if they want to be constructive participants in a solution to the health care debate, they need to be much more willing to help control costs.

And, interestingly, the American Medical Association and all kinds of physicians' groups and the Hospital Association are beginning to move in that direction. They understand what is being said; they understand we need reform; and they are beginning to talk to their members about cost containment. They are making progress.

I have met with consumers and emphasized the need for personal responsibility, and cost sharing, which has to be part of any reform proposal. I have met with representatives of businesses, of every size, and told them if they want cost containment that works, everyone must be in the system and, of course, has to have coverage. Everybody must give in order for meaningful health reform to occur.

And, for the most part, people and industries understand that. They are willing to work for something called "the common good." Except in the insurance industry. So far, I have seen no serious move from the industry that involves any kind of meaningful give from them at all.

The centerpiece of the insurance industry's proposed solution for controlling health care costs is managed care. That is why they love President Bush's proposals so much—he also leaves them alone, and sticks to managed care as the magic pill to cure skyrocketing costs.

Managed care essentially puts the insurer in the driver's seat, adding even more administrative costs to an already burdensome and expensive system.

I am for managed care too. It has to be a part of anything and everything that we do. But we should not be under any illusions about its ability to clamp down on costs. That jury is still out.

If insurance companies want to stay in business—and I say this to them directly—if they want to avoid a single-payer approach to health insurance, which would eliminate them entirely and have the Government do the entire thing—and very efficiently, I might add. I point out that Medicare is run with 3 percent overhead. It is very efficiently run by something called the Federal Government.

So if the insurance companies want to stay in business, if they want the private insurance sector to become a part of the solution, rather than to continue to be part of the problem, then they must be willing to come forward with much more significant proposals dealing with access and controlling costs. A slick and misleading Madison Avenue public relations effort will not substitute for meaningful health care reform.

Senator WOFFORD's come-from-behind victory last November sent a shock wave through Congress, the country, and through the Health Insurance Association of America. Evidently, their response was to place ads, on television and in the Washington Post, in Roll Call, and all over the place, trying to get our attention with incredibly naive, misleading statements.

Immediately, after Senator WOFFORD'S victory, HIAA commissioned a poll of Pennsylvania voters, after which they announced with great fanfare and a sigh of relief, that:

> It is a far stretch to assume that the tea leaves of the Pennsylvania election returns portend overwhelming support for national health insurance.

I wonder if they polled former Attorney General Dick Thornburgh on that question, and asked him whether or not he thought health care was a critical issue in that Senate race.

Mr. President, just as the private insurance market disintegrated for senior citizens in the 1960's leading to the enactment of an extremely popular, incredibly efficient Government-run program called Medicare, the disintegration of the private insurance market for small business and the spiralling costs of health care have led voters to demand a bold national solution. And they want it from us in Congress, and they say it so very clearly.

In one of their recent internal newsletters, the Health Insurance Association of America warned their members: "Congressmen GEPHARDT, STARK, DINGELL, and WAXMAN all threaten to challenge us"—meaning us, the insurance companies—"with a number of sweeping health care proposals."

They have it wrong. The real threat to the health insurance industry comes from the 7 million Americans denied health insurance coverage because of a prior medical condition.

The real threat, Mr. President, comes from 3 out of 10 Americans who are afraid to change jobs because they are afraid of losing their health care benefits. The real threat, Mr. President, comes from 1 out of 2 Americans who worry that their current health care benefits will be cut back substantially. The real threat, Mr. President, comes from the 61 percent of all Americans who are worried that their health insurance will become so expensive that they will not be able to afford it.

So I conclude with a challenge and a plea to the health insurance industry, and to all the individual companies who know this health care system inside and out. That system, I say to them, is badly broken, and they know it.

If you—and I am talking to the insurance industry—want to remain part of our system, if you want to honor your claims of public spirit, if you want to show that you really understand voters when you listen to them: You can stop signing checks for ad campaigns and sign onto a program that brings real reform to our health care system. You can join our fight for a health care system that provides good, affordable health care for every American.

It is the right thing, Mr. President, and it is the smart thing to do.

I thank the Chair, and I yield the floor.

Mr. RIEGLE. Mr. President, I ask unanimous consent to proceed for 5 minutes as in morning business.

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

HEALTH CARE CRISIS IN MICHIGAN

Mr. RIEGLE. Mr. President, I rise today to continue in an effort that I began last week to put human faces, individual faces, on the health care crisis facing our country. This relates, as well, to the important remarks made by my colleague and friend from West Virginia.

Like all colleagues, I am hearing every day from constituents about the health care problems that they are encountering with our health care system.

Today, I want to talk about the Dumsch family from Flushing, MI. The father had a massive stroke 5 years ago, and now needs constant care by his wife, Carol, who takes care of her husband and their 7-year-old daughter, Danica.

Dan has a master's degree in social work and was working in his profession until 1987, when he suffered a stroke. He is confined to a wheelchair and requires 24-hour help with daily living. Dan receives Social Security disability insurance benefits, and his medical care is covered through Medicare. But the only in-home services that Medi-

care pays for is skilled nursing care. Carol, his wife, provides all other care directly herself, because the family cannot afford to pay for home care services and other long-term care services, such as respite care.

The Dumsch family can only rely on neighbors to help them out, because affordable long-term health care insurance is not available to them.

Until a year and a half ago, Carol and Danica had private health insurance through a Health Plus family plan. But that coverage became too expensive for the family to afford. Because now the sole source of the family's income is their disability payments.

The cost of this private insurance plan was about $350 a month, and other plans available to them were just as expensive. Their insurance costs were about 24 percent of their monthly income. They obviously could not afford that, and Carol had to give up the coverage so that she would have enough money for groceries each week.

She has lost the protection that she needs, and also for their daughter. She has put off getting preventive care and physical checkups for herself and daughter, because they do not have the money to pay for these things. Like many American families, they fear that if either Carol or Danica becomes seriously ill, it would be even more of a catastrophe for them.

Carol and Danica, the mother and daughter, do not qualify for public assistance because of the income they get from Dan's disability payments. Yet, Carol is unable to work since she has to stay home to care for her disabled husband.

In a letter she wrote to me, she said:

We need help, but somehow we don't qualify and have fallen between the cracks. It takes all my energy to cope with the devastation a severe brain injury places on a family. Our daughter Danica who is now 7 years old has had a lot to deal with because of the constraints and limits dad's illness places on us. Danica and I have no health insurance, our monthly income doesn't allow for it.

The Dumsch family's neighbors, Stephen and Jean Kozel, have also contacted me. They wrote:

Carol has had to cancel her and Danica's health insurance so that they can buy groceries, as their only source of income has been Social Security. They are humble, wonderful people and would not ask for assistance. As Carol said, There are others out there that probably need it more than we.

I ask unanimous consent that these letters be printed in the RECORD.

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

FLUSHING, MI, *March 30, 1992.*

To Whom It May Concern:

Please be advised that it was recently brought to our attention, a family that is really in need of assistance in the form(s) of food, clothing, health insurance and financial aid. The following is a brief overview of our knowledge of their situation. Five years ago, March 20th, Dan who earned his Masters Degree, went to his office at work and suffered a massive stroke. At that time, Dan and his wife Carol had a two-year old daughter, Danica. Carol has taken care of both husband and daughter 24 hours a day, unable to leave Dan's side at all. We have been instrumental in seeing them two days a week. On Thursdays we sit with Dan so that Carol can go grocery shopping. Carol has had to cancel her and Danica's health insurance so that they can buy groceries, as their only source of income has been social security. They are humble, wonderful people and would not ask for assistance, as Carol said, "There are others out there that probably need it more than we."

We do not know what agencies, organizations or whom to contact so that assistance can be rendered to them. Please advise us and we will do all in our power to pursue assistance for them.

Perhaps there are some wealthy good samaritans that would be willing to help if they only were made aware of their plight.

Maybe there is some way of bringing it to local and/or national news media attention.

I know that they would be extremely grateful for whatever assistance they could obtain. Please read the attached letter.

To quote ex-president Ronald Reagan, "People don't help themselves because they are ignorant (not stupid) of where and how to obtain it." Therefore, we are herewith pleading our ignorance and asking your help to provide such information so that we may provide them assistance.

Thank you.

Sincerely,

STEPHEN AND JEAN KOZEL.

FLUSHING, MI.

On March 20, 1987 Dan suffered a spontaneous intracerebral hemorrhage. When this happened he fell and literally beat himself on a cement floor. A severe closed-head injury resulted. Dan had also aspirated 8 of his front teeth into his lungs. The seizure that resulted from the blood and head injury was stopped by injecting Dan with Pavalon which paralyzes the body. Dan was in a coma, and suffered cardiac arrest. An ICP screw was inserted into Dan's skull to monitor pressure. On March 22 the bleeding in Dan's brain continued and was life threatening so a craniotomy was performed at Hurley Medical Center to remove as much of the hematoma as possible.

The doctors gave us very little hope that Dan would even survive the surgery. A tracheotomy was also performed as Dan was on a respirator. The doctors also surgically removed all but one tooth that were lodged in Dan's lungs. Dan was released from Hurley at the end of April 1987.

One month later Dan suffered his first series of grand mal seizures. He was taken again by ambulance to Hurley Medical Center.

This is the beginning of a life that was in constant crisis. Over the last five years Dan has had at least if not more than 86 grand mal seizures. He has been rushed by ambulance to the hospital at least 20 times. He has been an in-patient in hospitals for 149 days.

In May 1988 at Mayo Clinic a right frontal lobectomy was performed in the hopes that removal of that portion of the brain would eliminate the grand mal seizures. They weren't eliminated, but they aren't as frequent. However, each bout of seizures causes more permanent brain damage. Dan suffers profound short term memory loss. His cerebellum (the center of balance in the brain) has atrophied, so he is in a wheelchair. Transfers can be made with assistance. Dan requires 24 hour care.

What further complicates our situation is we live solely on Social Security disability. I am my husband's sole caregiver. We cannot afford help. We are lucky to have some wonderful people willing to give me a break to shop or just get out of the house. Dan's insurance doesn't provide for basic in-home care (sad to say it would cover placement in a nursing home.) Dan's age also excludes us from help. He was not injured before age 25 to qualify as being developmentally disabled, nor is he old enough to be a senior citizen. Dan's injury was not the result of an auto accident, nor was his employer liable because the injury was a result of a medical condition.

We need help, but somehow we don't qualify and have fallen between the cracks. It takes all my energy to cope with the devastation a severe brain injury places on a family. Our daughter, Danica, who is now 7 years old has had a lot to deal with because of the constraints and limits dad's illness places on us. Danica and I have no health insurance, our monthly income doesn't allow for it.

CAROL DUMSCH.

Mr. RIEGLE. Mr. President, we need comprehensive health care reform. We need it for this family, and we need it for every other family in the country.

We have drafted a bill in this area, S. 1227, written by Senator MITCHELL, Senator KENNEDY, Senator ROCKEFELLER, and myself, and cosponsored by other Senators. This provides cost controls and allows us to establish a system of universal health care coverage.

In addition to that, we have also developed a long-term health care bill, S. 2571, again sponsored by the same cosponsors along with other Senators, and this addresses these long-term needs of the kind described in this case. It is time we act on this issue. It is an urgent national requirement for people all across Michigan and all across the country.

FREE-TRADE AGREEMENT WITH MEXICO

Mr. RIEGLE. Mr. President, let me now, in the time that remains, move to a different topic, and that is the announcement today of the tentative working out of the free-trade agreement with Mexico. I want to say very flatly and plainly that I think this poses a grave danger to the economic future in this country.

This free-trade agreement with Mexico today is a jobs program for Mexico. We need a jobs program for this country.

Today in California the unemployment rate is 9.5 percent. The State is broke. They cannot pay their bills. People are desperate, out of work. People with advanced degrees in all fields cannot find work to do.

The same is true in Michigan. The unemployment rate today in Michigan is 9.4 percent.

We need a jobs program for this country, not a jobs program that is going to

close plants here and move the jobs down to Mexico to take advantage of 50-cent an hour wages and an absence of environmental standards down there in that country.

Mexico is a Third World economy. When Turkey—also a Third World economy—wanted to come into the European Common Market, the Europeans said no. They said no because the differentials in wage rate standards and environmental standards were just too vast.

We have that problem here. I realize the administration thinks this may be good for the State of Texas because Texas borders Mexico, and I think they see additional economic activity.

I think it is going to be very damaging for our whole country. I think it is going to be particularly damaging to all the industrial base of our country. Already Ford, Chrysler, and GM have moved 70 plants south of the border to Mexico. That is without a free-trade agreement. But with a free-trade agreement in place, it is like a flashing green light that says, "Close your plants in America. Come to Mexico and take advantage of 50-cent an hour wage rates and absence of workplace protections and environmental standards and all the rest of it."

Just the other day Smith-Corona announced they are closing the last American typewriter plant in New York and moving it down to Mexico because they have been victims of trade cheating that has not been dealt with by the Bush administration.

So we need a jobs program for America. We do not need to be exporting millions more jobs down to Mexico in a situation where the workers there are badly exploited, as we know.

The notion that we are going to sell a whole lot of new things down in Mexico is absurd on its face. The income standard, the standard of living down there is so low that the citizens down there do not earn enough to be able to be significant buyers of American goods.

The main export we are going to have to Mexico is going to be American jobs, and it is going to affect every American. Every time we close a manufacturing plant in this country, it hurts the whole country.

People are desperate for jobs in the United States today. We need a jobs program here.

This is part and parcel of a situation where the Bush administration has an economic program for every country in the world except this one. They have an economic plan for Kuwait, an economic plan for Communist China, an economic plan for the old Soviet Union, and now an economic plan for Mexico. No economic plan for this country. And people need work here in America. Jobs are disappearing every single day.

So, we must open up this free-trade agreement. I have a resolution, Senate Resolution 109—we now have 32 cosponsors here in the Senate—to stretch out the arbitrary 20-hour time limit to give us at least 2 full weeks to work on this on the Senate floor, to be able to offer amendments in five different areas: workers rights, environmental protection, domestic content considerations, how the legal system will work in terms of the legal process down in Mexico, and, also, worker adjustment assistance. These are five key areas. And I know, from the secret details that have sort of filtered out through the shrouded discussions that have been going on with the Mexicans, these issues have not been dealt with sufficiently, and they are going to have to be dealt with here on the Senate floor. So, at the appropriate time, I intend to bring that resolution forward.

I have a commitment in writing from the majority leader to see to it that I will have an opportunity to do that. I hope, as the details of this now filter out, that my 32 cosponsors will grow in number. My goal is to achieve a majority in that area so that we are able to take this agreement apart right here on the Senate floor and deal with the problems and the defects that are bound to be in it based on the orientation of our negotiating force.

But this is absolutely critical because this is a jobs program for Mexico and that means taking jobs from the United States. We need jobs in this country, and that is what is going to have to be the centerpiece of the debate on this issue.

I yield the floor.

The PRESIDING OFFICER (Mr. DIXON). The distinguished Senator from Michigan yields the floor.

Mr. RIEGLE. If there is no one else seeking recognition, I suggest the absence of a quorum.

The PRESIDING OFFICER. On the suggestion of the absence of a quorum by the distinguished Senator from Michigan, the clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

The PRESIDING OFFICER. Without objection, it is so ordered. The distinguished senior Senator from Vermont is recognized.

Mr. LEAHY. Mr. President, first let me state what a delight it is for the Senator from Vermont to be here in the Senate Chamber to be presided over by such a notable and distinguished Presiding Officer, who also happens to be a close personal friend.

The PRESIDING OFFICER. The Senator is making a very excellent speech this morning. It is received with great pleasure by the Presiding Officer.

Mr. LEAHY. Mr. President, what is the parliamentary situation?

The PRESIDING OFFICER. We are on the tax bill, H.R. 11. The pending amendment is an amendment by the distinguished senior Senator from Kansas to the amendment of the distinguished Senator from Ohio.

Mr. LEAHY. Is there controlled time?

The PRESIDING OFFICER. There is no controlled time, I advise the distinguished senior Senator from Vermont.

STATE CARE BILL

Mr. LEAHY. Mr. President, I note for my colleagues, I am not going to be speaking specifically on the amendment but I am here to talk about legislation that I will introduce later today. I will speak further on the so-called State care bill, the Leahy-Pryor piece of legislation on health care. I will only speak for a minute or two now to notify colleagues that I will be introducing that.

We will have numerous, and do have numerous pieces of legislation before the Senate on medical care, on plans to provide health care for our people. There is no question that one of the greatest issues on the minds of all Americans, and justifiably so, is the lack of health care. We have tens of millions of Americans who have no health care. We have tens of thousands of people in my own State of Vermont who have no health care. We have a situation today where a parent will look at a child with an earache and wonder whether that is something that will go away or should it require medical care because if it requires medical care and they do not have medical insurance, they may be spending that month's rent or that week's food bill to get care for that child. But if they make a mistake and ignore it, that child may have a deafness for the rest of his or her life. What a terrible situation to put a parent in.

Every one of us in this body are blessed with the fact that we and our families can afford care, but for tens of millions of Americans, that is not the situation. We must do something so that people, parents, children, elderly, young married couples, whomever, do not face the constant worry that everything they worked for, everything they planned for, everything they do can be wiped out simply because of crushing medical costs. We are in a position where if we continue the way we are in this country, that one out of every three of our Federal dollars by the end of this decade will be spent just on medical care. No country can exist that way. But even having spent that, millions of Americans do not have basic health care.

My State care plan will allow those States willing and innovative enough to move forward today to do it in a way where every person in their State can be covered by a form of health care, one adequate to their needs. Many States want to do that today. My

own State of Vermont, the State of Florida under Governor Chiles, the State of Colorado and others want to do that if they are given the tools to work with. Under the State care plan, the Leahy-Pryor plan, they would be able to.

If the Federal Government is unable to move forward on health care legislation because the Congress and the President cannot come together or for whatever reason, at least allow the States to do it. At least allow the States to say to their citizens: We will have cost containment. We will bring down the costs of health care. We will have some rationality in it, but we will also provide every man, woman, and child with basic health care.

If the States are willing to do that, we ought to give them the tools, because you know what will happen, Mr. President? If enough States do that, the Federal Government itself will be forced to act, and there is precedent for it.

Earlier in this century, 28 of the States had child labor laws, things that we take for granted today. Once the States had done that, the Federal Government was forced to act to do it for all States, and we are a better country because of it. In 1935, 24 of the States had a form of Social Security. Then under President Roosevelt's leadership, with a Congress responding to the pressure from the other half of the country, a form of Social Security as we know it today was put in. Again, the States proved the impetus. I am willing to bet that States across this country, if given the tools to work with, will again prove to be the engine to drive through what will eventually be health care for all Americans.

Let us consider this, Mr. President. If a plan like the Leahy-Pryor plan were to pass the Congress, we would see States like my own State of Vermont, but many other States, very progressive States provide cost containment in medical care and provide basic health care for every one of their citizens and, I am willing to bet, the rest of the country would then follow suit because the Congress and the President would unite to respond to what is now a cry from millions and millions of Americans: Give us basic health care. Take away this fear, take away this fear that we cannot protect our children if they have an illness, we cannot protect our parents, or our elderly, or our spouses, or our families, or ourselves because we cannot afford health care; we do not have it available to us; we can be devastated by an illness. Let us remove that one basic fear from all Americans. We can do so.

Mr. President, I thank the courtesy of my colleagues who are waiting on another issue.

Again, I applaud the leadership of the Presiding Officer and my good friend and colleague from Illinois, and I am delighted to be serving in the same body with him. I yield the floor.

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

Mr. LAUTENBERG. Mr. President, I ask unanimous consent that I be permitted to speak out of order at this point.

The PRESIDING OFFICER. Without objection, it is so ordered. The Senator from New Jersey is recognized.

AMERICA AND ISRAEL—STEADFAST FRIENDS

Mr. LAUTENBERG. Mr. President, these days represent a time in history that I think has to be noted. The visit of the new Prime Minister of Israel to the United States, so soon after he took office, underscores the importance of our ties, the relationship between ourselves and Israel, and the fundamental value of the strategic and the moral alliance that accompanies that leadership. Regardless of who heads the Israeli Government, regardless of the strains that sometimes rise between friends, the United States and Israel have remained steadfast friends and unshakable at the core of their relationship.

Americans have long had a warm place in their hearts for Israel. Most Americans grew up admiring the plucky Israeli settlers who built a nation from the ashes of the Holocaust. Their ability to triumph against enormous odds in three defensive wars won the admiration of many.

They set up a flourishing, if occasionally boisterous, democracy, and made the desert bloom, and won our respect.

Yet, our strong ties to Israel and our strong military alliance were never based on just sentiment. They could not have survived if that was the case. America and Israel are joined in a longstanding friendship because of our shared democratic values and because Israel and the United States are important strategic allies in a dangerous world.

Israel, the Middle East's only democracy, shares America's commitment to the democratic way of life. Despite changes in elected governments over the last four decades, Israel has remained a democracy, and a steadfast and dependable ally of the United States. Israelis share a natural affinity with America—an affinity of values, interests, and political systems. Unlike so many other countries, there is no anti-American political movement in Israel.

Israel also fills a key strategic role for the United States in a volatile, dangerous region of the world.

America has important strategic interests in the Middle East, interests which have survived the demise of the Soviet Union and the end of the cold war. We seek to halt the spread of nuclear, chemical, and biological weapons and prevent unfriendly nations from again blackmailing America through embargos on oil. We hope to stem the rise of radical anti-Western fundamentalism, eradicate terrorism, and promote democracy wherever possible. Israel has been a rock solid partner in advancing those interests, because they are Israel's interests as well.

Israel has been unstinting in her efforts to cooperate militarily with America. She has welcomed the prepositioning of American equipment, so important for America's readiness to respond to a sudden conflict. She has opened her military facilities and offered her soldiers for joint training exercises with our Armed Forces.

In this post-cold-war era, military cooperation with Israel is increasingly critical as our defense budget shrinks and out troops are withdrawn from Europe. Burdensharing will mean greater reliance on our allies' military capabilities. There could be no better ally on which to rely than Israel, which has consistently demonstrated its military effectiveness.

Israel's military ability, as well as her foresight, were dramatically evident, thank goodness, in 1981, when she destroyed Iraq's Osirak nuclear reactor. This action stuck a server blow to Saddam Hussein's quest for nuclear weapons, and arguably avoided the first post-Nagasaki use of atomic weapons.

Israel's superb intelligence gathering capabilities are an additional asset for the United States. During the gulf war, for example, Secretary Cheney and Israeli Defense Minister Arens were on the phone nearly every day sharing critical intelligence information.

In a region were radical anti-Western fundamentalism and terrorism against innocent civilians persist, the United States has good reason to maintain and strengthen its longstanding, close relationship with Israel. Iran and Algeria are attempting to acquire nuclear weapons. Syria is buying ballistic missile technology from China and super-Scuds from the North Koreans. Libya and others are trying to lure Soviet nuclear scientists to their shores.

The last American hostages in Lebanon have returned home. But the fundamentalists' rise in Algeria and Iran's attempts to lure the Moslem republics of the former Soviet Union into the fundamentalist camp remain. These developments should give pause to anyone who believes the flames of radical anti-Western fundamentalism, have died or that the days of terrorism or hostage-taking are finished.

We do not share that reliable friendship and dependability with any other nation in the region: In fact, the one sure thing about our relationships with other Middle Eastern countries has been change.

For years, the United States nurtured pro-Western governments in Iraq,

Libya, and Iran, only to find those governments overthrown and replaced by leadership implacably hostile to our interests in the region. In the blink of an eye, we went from great friend to "Great Satan."

Even our alliances with Israel's so-called moderate neighbors have been short-lived. They have snapped under the yoke of radical anti-Western fundamentalism, wherever it has reared its ugly head. Despite our role in defending Saudi Arabia against Iraq, Saudi Arabia turned down our request to protect our mutual security interests by prepositioning American equipment on Saudi soil. And Jordan demonstrated what our longstanding friendship was worth when Jordan King Hussein backed Iraq during the gulf war.

In contrast, Israel has proven again and again to be a dependable supporter of the United States most recently in the gulf war. She not only shared critical intelligence information during the war, but she denied every human instinct and broke a sacred tenet of her foreign policy by refraining from retaliating for Scud attacks on her citizens.

What was the result? What did George Bush do to reward such a steadfast ally? He turned his back on Israel, suggesting arms sales to her enemies and delaying approval of loan guarantees for absorbing Soviet Jews—a goal the United States had long supported—by linking this request to Israel's adoption of policies unrelated to the emigration or the absorption of Soviet Jews.

President Bush singled out Israel. His policy was in stark contrast to the granting of over $12 billion in loan guarantees to Arab countries, including Iraq, without a single condition. As former Ambassador Jeanne Kirkpatrick pointed out:

> In the Middle East, President Bush and Secretary of State Baker embrace the kind of linkage between assistance and foreign policy that they oppose for China.

This policy emboldened the Arabs, making them less serious about negotiating peace with Israel. And by linking the loan guarantees to Israeli behavior on settlements, the President created an issue for the peace talks that the Arabs themselves had not raised.

For years the United States fought for the right of Soviet Jews to emigrate. We put our prestige and our trade benefits on the line for that policy. Jackson-Vanik was known by all. We said that if you do not let those people go, there is no way you are going to do business with us. For years, there was not a high level meeting between the United States and the Soviet Union that took place in which the issues of unfettered emigration was not raised. There was not a Soviet Government official who did not know that most-favored-nation [MFN] trading status was inextricably linked to free emigration of Soviet citizens.

Now, we have won the battle on free emigration. At the same time, we have limited the numbers of Soviet refugees who can come to the United States, leaving Israel as the only safe haven. The administration was wrong to link Soviet Jews and their resettlement to unrelated issues.

I am pleased that President Bush finally saw his way clear to providing loan guarantees for Israel. Although it was long overdue, it is welcome news. I hope we will move quickly to provide loan guarantees without any conditions when Congress reconvenes in September.

While our President has come around on this basic and important issue, friends of Israel cannot forget the long months when he opposed desperately needed humanitarian relief for Soviet refugees and our close, strategic ally Israel. We cannot forget the damage done to our alliance with Israel or the contemptuous manner in which the administration treated American citizens supporting the loan guarantees. The President was insensitive.

Mr. President, since Senators from the other side of the aisle have already raised the specter of Presidential politics, I want to make mention of the fact that I know someone who very well would not have made Israel wait. His name is Bill Clinton. Bill Clinton has consistently supported granting the loan guarantees to Israel without precondition.

He believes that after working tirelessly for the right of Soviet Jews to emigrate, America was morally obligated to provide the loan guarantees Israel needs without holding the refugees hostage in any political struggle over the peace process.

He believes that we should have granted the loan guarantees when Israel first asked because it is the least we can do for an ally that is that valuable. And it would not have cost the American citizens a dime.

But Bill Clinton's support for Israel goes to the core of the United States-Israeli relationship. Bill Clinton backs Israel where it counts, on the bedrock issues of Israel's fundamental security in the world. He knows that Israel is America's most dependable ally in the Middle East despite the end of the cold war, and he knows why. What is more, he understands that it is in America's strategic interests to keep her strong and secure. He is unequivocally committed to the strengthening and expansion of the strategic relationship in this post-cold-war era, and he has pledged to preserve Israel's qualitative military edge even after peace agreements have been reached.

Governor Clinton supports the ongoing peace negotiations, but he has objected to the administration pressure on Israel to make unilateral concessions during the peace process. He has criticized the administration's failure to press Arab states to end their crippling boycott while insisting Israel relent on the issue of settlements. He opposes a Palestinian state and believes Jerusalem should remain the undivided capital of the state of Israel.

Governor Clinton will also be meeting this day with Prime Minister Rabin, and I am sure that he is going to make his views clear to the Prime Minister and express his commitment to rebuilding that special relationship, that unique position that the relationship between Israel and the United States had because, despite the strong warnings of the United States-Israeli alliance, we have been through rough water in the last year and a half.

Prime Minister Rabin has taken far-reaching steps to achieve peace in the Middle East in the short time that he has been in office. He has gone to Egypt to meet with President Mubarak, the first meeting between an Israeli Prime Minister and an Egyptian leader since Anwar Sadat's historic visit to Jerusalem. He has already canceled contracts for 6,800 units of housing planned for settlements in the West Bank and made it more difficult for settlers to move to the territories by ending lucrative mortgage terms and tax benefits.

He has named a new chief negotiator for Israel's talk with Syria, demonstrating the new importance the Israeli Government has placed on negotiations with Syria. And he has demonstrated a new, more conciliatory approach toward conflicts between Israelis and Palestinians.

So hopefully we look forward to a new era of deeper, closer, stronger cooperation between Israel and the United States. But we must remember that regardless of who is at the helm of our respective countries that the ties that bind Israel and the United States together are unshakeable and enduring based on democratic values and the strategic interests of both countries.

I yield the floor.

Mr. SPECTER addressed the Chair.

The PRESIDING OFFICER. The distinguished senior Senator from Pennsylvania.

Mr. SPECTER. Mr. President, I ask unanimous consent that I may proceed as if in morning business.

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

ISRAELI LOAN GUARANTEES

Mr. SPECTER. I thank the Chair.

Mr. President, I have sought recognition for a number of purposes this morning, and one of the subjects that I had intended to address relates to the success between President Bush and Prime Minister Rabin in reaching agreement on the loan guarantees.

I will add to those comments the observation that I would have expected on the floor of the United States Senate today to hear praise for the parties who have resolved this very important issue as opposed to political speeches injecting Presidential politics on the floor of the United States Senate.

President Bush and Prime Minister Rabin I think are entitled to the compliments, commendations for the accord which they have reached on a very, very serious issue, and that is the extension of $10 billion in loan guarantees for the resettlement of Jewish emigrants from the former Soviet Union, from Ethiopia, and wherever those emigrants may come from.

Under the administration, President Bush, with the assistance of Secretary of State Baker, there has been unparalleled achievement on progress on the peace process in the Middle East. It was a matter of enormous importance last October 30 at the Madrid conference that representatives of the State of Israel sat down with representatives of the Arab nations, including Syria, where such talks, which had not been held, came to pass.

Frankly, I disagreed with the President in not moving ahead with the loan guarantees last September and said so on the floor of the U.S. Senate. The President had adopted his policy because of his view of longstanding U.S. policy on the settlements, again a matter on which I disagreed with the President. But he held those views and, as a result of what has happened, whether anyone may have disagreed with parts of it along the way or not, we are now at a position where there has been accord on the loan guarantees.

Perhaps of even greater importance is the fact that on August 24 peace talks were scheduled in Washington between Israel and the Arab countries, both multilateral and bilateral. These are not spasmodic talks but are continuing over a protracted period of time.

I have had the opportunity to hear, with other Senate representatives, House Representatives, a report from President Bush yesterday afternoon, and this morning I had an opportunity again with other Members of Congress, both Senate and House, to hear from prime Minister Rabin. The picture is very brightened.

So I think on a day when this success has been achieved that there would be at least one moment—it is hard to find even one moment on the floor of the United States Senate without partisanship—but at least one moment when the President and the administration would be congratulated, jointly with the new Government of Israel, as opposed to the kind of partisanship and the injection of the political candidacies, of the political praise for someone else as opposed to what is a governmental function which I think is our prime role here in the Senate.

LABOR, HHS, AND EDUCATION APPROPRIATIONS

Mr. SPECTER. Mr. President, for a moment I choose to address another subject, and that is the forthcoming work of the Subcommittee on Labor, Health and Human Services and Education Appropriations.

Yesterday afternoon I sat down with my distinguished colleague, Senator HARKIN, the chairman of the subcommittee, and we worked through a preliminary outline to stay within the allocation given to the Labor, Health and Human Services, and Education Subcommittee. As I have noted before, Mr. President, I believe that the subcommittee ought to have a larger share of the Federal budget than is currently being allocated. Senator HARKIN and I looked at some very, very important items. It is extremely difficult to make appropriate funding recommendations with the very limited resources which we have.

I am serving notice at this moment, Mr. President, of the intention of this Senator to offer amendments to break the so-called firewall between defense spending and spending for labor, health and human services and education when that appropriations bill comes to the floor.

We live in a different era with respect to the military challenge with the very fundamental changes in the Soviet Union. It is true that we still have problems around the world, evidenced by the gulf war, and evidenced by the continued failure of Saddam Hussein to follow the requirements of the United Nations to which he had agreed when the gulf war ended, and we have very severe problems in Yugoslavia, and we have a need for a military presence. But the allocation of resources I would suggest has to be reevaluated. I realize that it takes a 60-vote majority to break the firewall.

But as I review the pending funding levels in Labor, Health and Human Services, and Education, I think that is going to be a necessity.

One item that I will call to my colleagues' attention is the issue of low income home energy assistance for the poor. The funds available are totally insufficient to provide for that very important line of activity. There is going to have to be a reallocation of funds in order to do what is necessary for that important program.

On the question of medical research, again, there are insufficient funds for very important research for Alzheimer's disease, diabetes, mental health, breast cancer, prostate cancer, and other programs where prevention would be important in saving money in the longrun. Again, we are going to have to look to reallocation to have sufficient funding in these areas. Similarly, in the area of safety for labor, there are insufficient funds to take what action is necessary.

Perhaps, the most anomalous factor which the Congress has acted on relates to Pell grants. The Congress congratulated itself on passing the Higher Education Act, which provided for increased funding for Pell grants, and raised the maximum grant from $2,400 to $3,700 a year, and increase that amount $200 in each successive years through 1997.

But at the same time that was done, the House of Representatives acted to reduce the funding for Pell grants from $2,400 to $2,300. I say that not in any way in criticism of what the House has done in the sense of their funding recommendations because of the limitations. But I think that it is simply unacceptable for the Congress to legislate an authorization which increases Pell grants from $2,400 to $3,700, and at the same time, to reduce the maximum grant in the appropriations bill from $2,400 to $2,300.

I am sure that the American people do not understand the complexities of our authorization process versus appropriations. In a nutshell, we authorize first, and we appropriate second. We have separate committees which do authorizations and then we have the Appropriations Committee, and theoretically, we are not permitted to appropriate until there is an authorization.

Having said that—and that is an oversimplification—I am sure it is not understandable to the American people that we talk about a $3,700 maximum for Pell grants, and compliment ourselves for having done that, and simultaneously talk about a reduction of actual cash from $2,400 to $2,300. This is a big-ticket item, Mr. President, and I believe that the only way we are going to find those funds is to break the firewall.

(The remarks of Mr. SPECTER pertaining to the introduction of S. 3176 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

Mr. SPECTER. I thank the Chair for the time. I note that no other Senator has come to the floor seeking recognition, so I have taken perhaps a little more time.

But at this time, in the absence of any other Senator on the floor, I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. ROBB). The absence of a quorum has been suggested. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

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

The PRESIDING OFFICER. Is there objection? Without objection, the Sen-

ator is recognized for up to 10 minutes as if in morning business.

EXTENDING THE MEDICARE DEPENDENT HOSPITAL PROGRAM

Mr. GRASSLEY. Mr. President, I am pleased to be the lead cosponsor of legislation that I believe has been introduced maybe 10 days ago by the Republican leader, Senator DOLE, to extend the Medicare Dependent Hospital Program.

Medicare dependent hospitals, by definition, are rural hospitals with less than 100 beds and a Medicare share of discharges or patient days of at least 60 percent. These hospitals are able to use the highest of three alternative methods of computing Medicare reimbursement.

There are 54 of these hospitals in my State of Iowa and 563 such hospitals around the country. Only two States—Texas and Kansas—have more hospitals in this category than does Iowa.

The Medicare dependent hospital provision of Medicare law is worth around $7.5 million a year to these hospitals in Iowa. At least one of these hospitals gets $1 million by virtue of its qualification for this status. Others get hundreds of thousands of dollars that they otherwise would not get were it not for this program.

Needless to say, this is money that it will be very difficult to replace should this program cease without some other positive development, such as the elimination of the rural-urban differential, scheduled for October 1, 1994.

A new report issued by the Iowa Hospital Association shows that 32 Iowa hospitals operated in the red at the end of 1991, a 33-percent increase over the previous year. Medicare is the major culprit, according to this report, in failing to cover the cost of the care that these hospitals provide.

Iowa cannot afford to lose these hospitals, Mr. President, any more than I suppose Texas or Kansas can afford to lose these hospitals. I am not speaking here just for my State.

If Iowa citizens living in rural communities are to have access to good health care, we have to have these hospitals. Because so many of them are dependent upon Medicare, then that is a major problem that this differential deals with as a transition to the doing away with the rural-urban wage differential.

Not all of these hospitals, it should be pointed out, take a rate different than the standard Medicare reimbursement rate for which they would be qualified. Approximately 30 of these hospitals in Iowa take advantage of special rates under this classification.

The reason a special designation was permitted these hospitals is clear from the designation itself—Medicare dependent. These are small hospitals which are extraordinarily dependent on Medicare reimbursement. There are few ways that these hospitals can make up for contractual adjustments—the difference between hospital charges and Medicare reimbursement.

This provision of Medicare law ends March 31, 1993, but hospitals lose eligibility at the end of their fiscal year. Thus, some hospitals dropped out—at least in my State—in April of this year. Another large group dropped out on June 30, 1992, including in Iowa a very large group, 48 of the 54 eligible. Others will drop out in September and in December because they have various fiscal years.

What our bill, the bill Senator DOLE and I put in, does is extend this provision, currently due to expire on March 31, 1993, until March 31, 1994, under the same terms as in current law, and then until September 30, 1994, under terms that would provide eligible hospitals with 50 percent of the difference between their standard reimbursement and the highest rate permitted under terms of the Medicare dependent hospitals provisions.

The bill would also be retroactive, permitting those hospitals which have already lost this status because of current law requirements to be reimbursed as though no interruption in that status had occurred.

Our bill carries the Medicare dependent hospitals provision forward until September 30, 1994, because the difference between urban and rural payment rates ends on that date and hospitals will be on a level playing field, at least as far as Medicare reimbursement is concerned.

Some had advocated a simple 1-year extension of the program on the grounds that the urban-rural differential would be being phased out, and that other changes would be occurring in the hospital part of the Medicare Program within the same general period of time.

However, a 1-year extension would have simply recreated next year the same problem we are now facing. Many hospitals would have been out of the Medicare Dependent Hospitals Program for a year or more before final phasing out of the urban-rural differential. Thus, we felt that a longer extension was called for, and that is basically how the Dole-Grassley bill differs from other bills offered to solve the problem.

Some had advocated a full 2-year extension of the program. But, a full 2-year extension would not only be considerably more expensive that the bill we propose today, but the Medicare Dependent Hospitals would be getting extra payment for some time after elimination of the urban-rural differential when there is no point in having this program.

We have not included an offset in the bill, but under our budget rules, of course, the extension of this provision will have to be paid for when we act on it. I understand the concern within the hospital community that the cost of the bill would be paid for from funds now going to urban hospitals, or from funds now going to other rural—not Medicare dependent—hospitals.

Speaking for myself, I would like to find a way to pay for this legislation that does not come from within the hospital payment component of Medicare.

Mr. President, rural hospitals in my State are not doing well under the Medicare Program. The administrators of many of these hospitals in my State have been in touch with me about the even tighter fiscal crunch they will face if they lose this status.

Therefore, I will be working hard to pass and send this legislation to the President before the Congress adjourns later this year.

Mr. President, I yield the remainder of my time. I see no other Senator on the floor seeking recognition, so I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

TAX ENTERPRISE ZONES ACT

The Senate continued with the consideration of the bill.

Mr. SPECTER. Mr. President, in the absence of any other Senator seeking recognition at this moment I think it would be appropriate to make some comments on the pending tax bill at this time.

Mr. President, I am glad to see the pending tax legislation includes the essential points on legislation introduced by the distinguished Senator from New Mexico [Mr. DOMENICI] and myself, on Senate bill 2612.

That legislation had been introduced several months ago when Senator DOMENICI and I noted that there were four points common between the proposal submitted by the President and the proposals passed by the Congress. It has been noted repeatedly on this floor and other places, Mr. President, that there has been a gridlock in Washington; that when the President submitted his proposals for an economic recovery, they were, in effect given short shrift by the Congress, controlled by the opposite party and, candidly, when the Congress submitted the economic recovery program, it was given short shrift when it was received by the executive branch.

Looking at that situation, Senator DOMENICI and I introduced Senate bill 2612 which took four points in common, and the essential ingredients of these

four points have been retained in the current legislation.

One point was to give a tax break to first-time home buyers which would assist young people in their efforts to purchase a home. It would also stimulate the building business.

A second point related to the investment tax allowance which would stimulate economic growth and again provide jobs.

A third point related to bringing back in some fashion the passive loss on real estate where that would be recognized where there was a legitimate real estate transaction as opposed to simply a tax dodge.

And the fourth point, to modify the investments possible on retirement programs.

It is regrettable, Mr. President, that those four common points were not passed months ago to provide a basis for an economic recovery to put millions of Americans back to work. But they are incorporated in the pending legislation and it is better that we do it at this juncture—better late than never, in essence.

As those points relate to other proposals in this plan, I think we do have a basis to stimulate an economic recovery.

I further note, Mr. President, that we have in the pending legislation the stimulus which was again proposed by Senator DOMENICI and myself on utilizing the funds available from IRA's [individual retirement accounts], 401(k) plans, and Keogh proposals where we have very substantial funds available which could be used to stimulate the economy.

We took a look at the economic situation months ago, Mr. President, and noted the budget agreement which precluded the priming of the pump by Federal expenditures because no such Federal expenditures could be made without an offset. At the time, we noted the availability of some $800 billion in IRA's and 401(k) plans, in addition to the trillions of dollars which are available in other retirement funds. We proposed in legislation that middle-income Americans be permitted to withdraw up to $10,000 a year within 1992 without penalty and without payment for the purchase of big ticket items like cars, homes, medical expenses, and tuition, with that $10,000 to be repaid $2,500 a year in the course of the next 4 years, 1993, 1994, 1995, and 1996, and in each of those years the taxpayer is to pay the tax on that money.

The essential elements of that program have been achieved in this legislation except for the cars. This Senator has already filed notice of an amendment, and I hope to add that final ingredient. It is an arrangement where I think the essential ingredients of the earlier proposed legislation by Senator DOMENICI and myself will be included with the rollover provisions where the existing IRA's can be rolled over into the new super IRA's proposed in this bill, and the super IRA's would permit withdrawal for the three purposes: homes, medical expenses, and tuition.

There will be, as I say, proposed amendments to perfect the pending legislation to match what Senator DOMENICI and I had introduced in the past, but it is my hope that these items will be included in legislation to stimulate an economic recovery because if we make available those IRA funds, the estimates are between $40 billion and $120 billion which would be injected into the economy. There is a certain tradeoff in terms of utilization of those funds now, contrasted with having them available in savings. But the saving aspect would be promoted by providing for repayment of the $10,000, or whatever amount is withdrawn in four installments from the years 1993, 1994, 1995, and 1996.

I thank the Chair. Again, I note no other Senator present on 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. BAUCUS. 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. BAUCUS. Mr. President, I ask, what is the regular order?

The PRESIDING OFFICER. The regular order at this point is a second-degree amendment proposed by the Senator from Kansas, for the Senator from Oregon, to a first-degree amendment 2931 proposed by the Senator from Ohio, Senator METZENBAUM.

Mr. BAUCUS. I ask unanimous consent to be allowed to speak as if in morning business.

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

The Senator from Montana is recognized.

Mr. BAUCUS. I thank the Chair.

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

Mr. President, I yield the floor.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

The PRESIDING OFFICER. What objection, it is so ordered.

Mr. CONRAD. Mr. President, I inquire of the manager of the bill what the status is at this time, and whether this would be an appropriate time for a 5-minute statement on an unrelated item.

Mr. BENTSEN. I say to my distinguished friend from North Dakota, I am preparing now to move on an amendment. I am about to ask a unanimous-consent request to be able to do that.

Mr. CONRAD. Mr. President, I am glad, then, to wait until an appropriate time so as not to interfere with the bill that is before us.

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. 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 ask unanimous consent that the pending Metzenbaum amendment, No. 2931, and the Dole amendment, No. 2934, be temporarily laid aside; that Senator MACK be recognized to offer a capital gains amendment; that here be 1 hour for debate, equally divided in the usual form, prior to a point of order being raised against the Mack amendment by the chairman or his disignee; that no second-degree amendments be in order to the Mack amendment prior to the disposition of the point of order; that the Mack amendment will still be debatable and amendable should the point of order be waived.

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

Mr. MACK addressed the Chair.

The PRESIDING OFFICER. The Chair recognizes the Senator from Florida [Mr. MACK].

AMANDMENT NO. 2936

(Purpose: To amend the Internal Revenue Act of 1986 to provide for a maximum long-term capital gains rate of 15 percent and indexing of certain capital assets, and for other purposes).

Mr. MACK. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Florida [Mr. MACK] proposes an amendment numbered 2936.

Mr. MACK. 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 add the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Economic Growth and Venture Capital Act of 1992".

SEC. 2. REDUCTION IN INDIVIDUAL CAPITAL GAINS RATE.

(a) GENERAL RULE.—Subsection (h) of section 1 of the Internal Revenue Code of 1986 (relating to maximum capital gains rate) is amended to read as follows:

"(h) MAXIMUM CAPITAL GAINS RATE.—

"(1) IN GENERAL.—If a taxpayer has a net capital gain for any taxable year, then the tax imposed by this section shall not exceed the sum of—

"(A) a tax computed at the rates and in the same manner as if this subsection had not been enacted on the taxable income reduced by the net capital gain, plus

"(B) a tax equal to the sum of—

"(i) 7.5 percent of so much of the net capital gain as does not exceed—

"(I) the maximum amount of taxable income to which the 15-percent rate applies under the table applicable to the taxpayer, reduced by

"(II) the taxable income to which subparagraph (A) applies, plus

"(ii) 15 percent of the net capital gain in excess of the net capital gain to which clause (i) applies.

"(2) TRANSITIONAL RULE.—In the case of a taxable year which includes August 11, 1992, the amount of the net capital gain for purposes of paragraph (1) shall not exceed the net capital gain determined by only taking into account gains and losses properly taken into account for the portion of the taxable year after such date."

(b) TECHNICAL AMENDMENTS.—

(1) Paragraph (1) of section 170(e) of such Code is amended by striking "the amount of gain" in the material following subparagraph (B)(ii) and inserting "13/28 (19/34 in the case of a corporation) of the amount of gain".

(2)(A) The second sentence of section 7518(g)(6)(A) of such Code is amended by striking "28 percent (34 percent in the case of a corporation)" and inserting "15 percent".

(B) The second sentence of section 607(h)(6)(A) of the Merchant Marine Act, 1936, is amended by striking "28 percent (34 percent in the case of a corporation)" and inserting "15 percent".

SEC. 3. REDUCTION IN CORPORATE CAPITAL GAINS RATE.

(a) GENERAL RULE.—Section 1201 of the Internal Revenue Code of 1986 (relating to alternative tax for corporations) is amended by redesignating subsection (b) as subsection (c), and by striking subsection (a) and inserting the following:

"(a) GENERAL RULE.—If for any taxable year a corporation has a net capital gain, then, in lieu of the tax imposed by section 11, 511, or 831(a) (whichever applies), there is hereby imposed a tax (if such tax is less than the tax imposed by such section) which shall consist of the sum of—

"(1) a tax computed on the taxable income reduced by the net capital gain, at the same rates and in the same manner as if this subsection had not been enacted, plus

"(2) a tax of 15 percent of the net capital gain.

"(b) TRANSITIONAL RULE.—In the case of a taxable year which includes August 11, 1992, the amount of the net capital gain for purposes of subsection (a) shall not exceed the net capital gain determined by only taking into account gains and losses properly taken into account for the portion of the taxable year after such date."

(b) TECHNICAL AMENDMENTS.—

(1) Clause (iii) of section 852(b)(3)(D) of such Code is amended by striking "66 percent" and inserting "85 percent".

(2) Paragraphs (1) and (2) of section 1445(e) of such Code are each amended by striking "34 percent" and inserting "15 percent".

SEC. 4. REDUCTION OF MINIMUM TAX RATE ON CAPITAL GAINS.

Subparagraph (A) of section 55(b)(1) of the Internal Revenue Code of 1986 (relating to tentative minimum tax) is amended to read as follows:

"(A) the sum of—

"(i) 15 percent of the lesser of—

"(I) the net capital gain (determined with the adjustments provided in this part and (to the extent applicable) the limitations of sections 1(h)(2) and 1201(b)), or

"(II) so much of the alternative minimum taxable income for the taxable year as exceeds the exemption amount, plus

"(ii) 20 percent (24 percent in the case of a taxpayer other than a corporation) of the amount (if any) by which the excess referred to in clause (i)(II) exceeds the net capital gain (as so determined), reduced by".

SEC. 5. INDEXING OF CERTAIN ASSETS FOR PURPOSES OF DETERMINING GAIN OR LOSS.

(a) IN GENERAL.—Part II of subchapter O of chapter 1 of the Internal Revenue Code of 1986 (relating to basis rules of general application) is amended by inserting after section 1021 the following new section:

"SEC. 1022. INDEXING OF CERTAIN ASSETS FOR PURPOSES OF DETERMINING GAIN OR LOSS.

"(a) GENERAL RULE.—

"(1) INDEXED BASIS SUBSTITUTED FOR ADJUSTED BASIS.—Except as provided in paragraph (2), if an indexed asset which has been held for more than 1 year is sold or otherwise disposed of, for purposes of this title the indexed basis of the asset shall be substituted for its adjusted basis.

"(2) EXCEPTION FOR DEPRECIATION, ETC.—The deduction for depreciation, depletion, and amortization shall be determined without regard to the application of paragraph (1) to the taxpayer or any other person.

"(b) INDEXED ASSET.—

"(1) IN GENERAL.—For purposes of this section, the term 'indexed asset' means—

"(A) stock in a corporation, and

"(B) tangible property (or any interest therein), which is a capital asset of property used in the trade or business (as defined in section 1231(b)).

"(2) CERTAIN PROPERTY EXCLUDED.—For purposes of this section, the term 'indexed asset' does not include—

"(A) CREDITOR'S INTEREST.—Any interest in property which is in the nature of a creditor's interest.

"(B) OPTIONS.—Any option or other right to acquire an interest in property.

"(C) NET LEASE PROPERTY.—In the case of a lessor, net lease property (within the meaning of subsection (h)(1)).

"(D) CERTAIN PREFERRED STOCK.—Stock which is fixed and preferred as to dividends and does not participate in corporate growth to any significant extent.

"(E) STOCK IN CERTAIN CORPORATIONS.—Stock in—

"(i) an S corporation (within the meaning of section 1361),

"(ii) a personal holding company (as defined in section 542), and

"(iii) a foreign corporation.

"(3) EXCEPTION FOR STOCK IN FOREIGN CORPORATION WHICH IS REGULARLY TRADED ON NATIONAL OR REGIONAL EXCHANGE.—Clause (iii) of paragraph (2)(E) shall not apply to stock in a foreign corporation the stock of which is listed on the New York Stock Exchange, the American Stock Exchange, or any domestic regional exchange for which quotations are published on a regular basis other than—

"(A) stock of a foreign investment company (within the meaning of section 1246(b)), and

"(B) stock in a foreign corporation held by a United States person who meets the requirements of section 1248(a)(2).

"(c) INDEXED BASIS.—For purposes of this section—

"(1) INDEXED BASIS.—The indexed basis for any asset is—

"(A) the adjusted basis of the asset, multiplied by

"(B) the applicable inflation ratio.

"(2) APPLICABLE INFLATION RATIO.—The applicable inflation ratio for any asset is the percentage arrived at by dividing—

"(A) the gross national product deflator for the calendar quarter in which the disposition takes place, by

"(B) the gross national product deflator for the calendar quarter in which the asset was acquired by the taxpayer (or, if later, the calendar quarter ending December 31, 1991).

The applicable inflation ratio shall not be taken into account unless it is greater than 1. The applicable inflation ratio for any asset shall be rounded to the nearest one-tenth of 1 percent.

"(3) GROSS NATIONAL PRODUCT DEFLATOR.—The gross national product deflator for any calendar quarter is the implicit price deflator for the gross national product for such quarter (as shown in the first revision thereof).

"(4) SECRETARY TO PUBLISH TABLES.—The Secretary shall publish tables specifying the applicable inflation ratios for each calendar quarter.

"(d) SPECIAL RULES.—For purposes of this section—

"(1) TREATMENT AS SEPARATE ASSET.—In the case of any asset, the following shall be treated as a separate asset:

"(A) a substantial improvement to property,

"(B) in the case of stock of a corporation, a substantial contribution to capital, and

"(C) any other portion of an asset to the extent that separate treatment of such portion is appropriate to carry out the purposes of this section.

"(2) ASSETS WHICH ARE NOT INDEXED ASSETS THROUGHOUT HOLDING PERIOD.—

"(A) IN GENERAL.—The applicable inflation ratio shall be appropriately reduced for calendar months at any time during which the asset was not an indexed asset.

"(B) CERTAIN SHORT SALES.—For purposes of applying subparagraph (A), an asset shall be treated as not an indexed asset for any short sale period during which the taxpayer or the taxpayer's spouse sells short property substantially identical to the asset. For purposes of the preceding sentence, the short sale period begins on the day after the substantially identical property is sold and ends on the closing date for the sale.

"(3) TREATMENT OF CERTAIN DISTRIBUTIONS.—A distribution with respect to stock in a corporation which is not a dividend shall be treated as a disposition.

"(4) SECTION CANNOT INCREASE ORDINARY LOSS.—To the extent that (but for this paragraph) this section would create or increase a net ordinary loss to which section 1231(a)(2) applies or an ordinary loss to which any other provision of this title applies, such provision shall not apply. The taxpayer shall be treated as having a long-term capital loss in an amount equal to the amount of the ordinary loss to which the preceding sentence applies.

"(5) ACQUISITION DATE WHERE THERE HAS BEEN PRIOR APPLICATION OF SUBSECTION (a)(1) WITH RESPECT TO THE TAXPAYER.—If there has been a prior application of subsection (a)(1) to an asset while such asset was held by the taxpayer, the date of acquisition of such asset by the taxpayer shall be treated as not

earlier than the date of the most recent such prior application.

"(6) COLLAPSIBLE CORPORATIONS.—The application of section 341(a) (relating to collapsible corporations) shall be determined without regard to this section.

"(e) CERTAIN CONDUIT ENTITIES.—

"(1) REGULATED INVESTMENT COMPANIES; REAL ESTATE INVESTMENT TRUSTS; COMMON TRUST FUNDS.—

"(A) IN GENERAL.—Stock in a qualified investment entity shall be an indexed asset for any calendar month in the same ratio as the fair market value of the assets held by such entity at the close of such month which are indexed assets bears to the fair market value of all assets of such entity at the close of such month.

"(B) RATIO OF 90 PERCENT OR MORE.—If the ratio for any calendar month determined under subparagraph (A) would (but for this subparagraph) be 90 percent or more, such ratio for such month shall be 100 percent.

"(C) RATIO OF 10 PERCENT OR LESS.—If the ratio for any calendar month determined under subparagraph (A) would (but for this subparagraph) be 10 percent or less, such ratio for such month shall be zero.

"(D) VALUATION OF ASSETS IN CASE OF REAL ESTATE INVESTMENT TRUSTS.—Nothing in this paragraph shall require a real estate investment trust to value its assets more frequently than once each 36 months (except where such trust ceases to exist). The ratio under subparagraph (A) for any calendar month for which there is no valuation shall be the trustee's good faith judgment as to such valuation.

"(E) QUALIFIED INVESTMENT ENTITY.—For purposes of this paragraph, the term 'qualified investment entity' means—

"(i) a regulated investment company (within the meaning of section 851),

"(ii) a real estate investment trust (within the meaning of section 856), and

"(iii) a common trust fund (within the meaning of section 584).

"(2) PARTNERSHIPS.—In the case of a partnership, the adjustment made under subsection (a) at the partnership level shall be passed through to the partners.

"(3) SUBCHAPTER S CORPORATIONS.—In the case of an electing small business corporation, the adjustment under subsection (a) at the corporate level shall be passed through to the shareholders.

"(f) DISPOSITIONS BETWEEN RELATED PERSONS.—

"(1) IN GENERAL.—This section shall not apply to any sale or other disposition of property between related persons except to the extent that the basis of such property in the hands of the transferee is a substituted basis.

"(2) RELATED PERSONS DEFINED.—For purposes of this section, the term 'related persons' means—

"(A) persons bearing a relationship set forth in section 267(b), and

"(B) persons treated as single employer under subsection (b) or (c) of section 414.

"(g) TRANSFERS TO INCREASE INDEXING ADJUSTMENT OR DEPRECIATION ALLOWANCE.—If any person transfers cash, debt, or any other property to another person and the principal purpose of such transfer is—

"(1) to secure or increase an adjustment under subsection (a), or

"(2) to increase (by reason of an adjustment under subsection (a)) a deduction for depreciation, depletion, or amortization,

the Secretary may disallow part or all of such adjustment or increase.

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

"(1) NET LEASE PROPERTY DEFINED.—The term 'net lease property' means leased real property where—

"(A) the term of the lease (taking into account options to renew) was 50 percent or more of the useful life of the property, and

"(B) for the period of the lease, the sum of the deductions with respect to such property which are allowable to the lessor solely by reason of section 162 (other than rents and reimbursed amounts with respect to such property) is 15 percent or less of the rental income produced by such property.

"(2) STOCK INCLUDES INTEREST IN COMMON TRUST FUND.—The term 'stock in a corporation' includes any interest in a common trust fund (as defined in section 584(a)).

"(i) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of this section."

(b) CLERICAL AMENDMENT.—The table of sections for part II of subchapter O of such chapter 1 of such Code is amended by inserting after the item relating to section 1021 the following new item:

"Sec. 1022. Indexing of certain assets for purposes of determining gain or loss."

(c) ADJUSTMENT TO APPLY FOR PURPOSES OF DETERMINING EARNINGS AND PROFITS.—Subsection (f) of section 312 of such Code (relating to effect on earnings and profits of gain or loss and of receipt of tax-free distributions) is amended by adding at the end thereof the following new paragraph:

"(3) EFFECT ON EARNINGS AND PROFITS OF INDEXED BASIS.—

"For substitution of indexed basis for adjusted basis in the case of the disposition of certain assets after December 31, 1990, see section 1022(a)(1).".

SEC. 6. INDEXING OF LIMITATION ON CAPITAL LOSSES OF INDIVIDUALS.

Section 1211 of the Internal Revenue Code of 1986 (relating to limitation on capital losses) is amended by adding at the end thereof the following new subsection:

"(c) INDEXATION OF LIMITATION ON NONCORPORATE TAXPAYERS.—

"(1) IN GENERAL.—In the case of any taxable year beginning in a calendar year after 1991, the $3,000 and $1,500 amounts under subsection (b)(1) shall be increased by an amount equal to—

"(A) such dollar amount, multiplied by

"(B) the applicable inflation adjustment for the calendar year in which the taxable year begins."

"(2) APPLICABLE INFLATION ADJUSTMENT.—For purposes of paragraph (1), the applicable inflation adjustment for any calendar year is the percentage (if any) by which—

"(A) the gross national product deflator for the last calendar quarter of the preceding calendar year, exceeds

"(B) the gross national product deflator for the last calendar quarter of 1991.

For purposes of this paragraph, the term 'gross national product deflator' has the meaning given such term by section 1022(c)(3)."

SEC. 7. EFFECTIVE DATES.

(a) IN GENERAL.—Except as provided in subsection (b), the amendments made by this Act shall apply to sales or exchanges occurring after March 7, 1991, in taxable years ending after such date.

(b) INDEXING OF LOSS LIMITATION.—The amendments made by section 6 of this Act shall apply to taxable years beginning after December 31, 1991.

Mr. MACK. Mr. President, I wish to thank the chairman of the committee for working out the arrangements so that I could offer this amendment today. I offer the amendment to reduce the capital gains tax rate, which I will describe in a moment.

The reason for offering the amendment is that I am concerned about the future growth of the economy. I do not see the signs that indicate that we are going to have rapid economic growth ahead of us, and I honestly believe that we will not see fast, job-creating growth unless we do something significant with respect to the capital gains tax rate. This amendment is similar to a bill that I introduced earlier this session.

Again, I am offering the amendment because we are seeing that the leading economic indicators have fallen once again during last month. Several negative reports on housing starts have come out over the last several months. Banks are not lending. Credit has virtually dried up in a very, very important area. There has been no growth in net business formation in this country for several years. Unemployment rates continue to be too high, and in certain areas of my own State, we have unemployment that is over 10 percent. Real estate values continue to fall.

During several hearings during this past year and a half in the Banking Committee, I raised the question about capital gains of Alan Greenspan, Chairman of the Federal Reserve Board of Governors, and William Seidman, who, at the time, was Chairman of the FDIC, as to whether they believed lowering the capital gains rate would be beneficial to the value of real estate.

I raised this real estate issue because I think most of my colleagues are sensitive to the cost of the S&L bailout. I make the claim that a lower capital gains rate would increase the value of real estate, increase the value of real estate held by RTC and FDIC and, being able to sell that real estate at a higher value, certainly would reduce the cost of the S&L bailout.

I asked Alan Greenspan whether lower capital gains rates would help increase the value of real estate. His response was:

Well, I've always, as you know, been supportive of either lowering the capital-gains tax or preferably eliminating it completely, because I don't think it is a type of tax which will promote growth in the economy. I think it's fairly evident that, to the extent that capital-gains tax is lowered, you will get potentially higher property values, because, to the extent that you have a speculative purchase of a property, to the extent that anticipation of capital gain is hit by a significant capital-gains tax, you will clearly get some notion of restraint, resistance or hesitation.

He goes on further to say:

* * * there's no question in my mind that a capital-gains tax cut would be helpful with respect to the issue of property values and economic growth.

William Seidman made comments that supported what was said by Chairman Greenspan.

The amendment that I am offering this morning is an amendment that could cut the capital gains tax rate for those in the highest income tax brackets to 15 percent. It further states that for those in the lower bracket, capital gains would be taxed at a 7.5 percent rate. There is a 1-year holding period, and most assets are covered under this proposal. Indexing of the gains for inflation would take place prospectively, and it excludes capital gains from the minimum tax.

I know that there are going to be several arguments raised as to why it would be wrong to lower the capital gains tax rate. The first argument that is going to be raised is that this amendment does not comply with the Budget Act and so a point of order will be raised.

I want to make several arguments as to why I think my colleagues should ignore that point of order. The first is, if you look at the bill that is before us today, great concerns are raised about the rules that have been established to determine whether an amendment is in order or whether it is not.

Let me remind everyone of yesterday's debate about IRA's. I happen to be a supporter of IRA's.

According to budget rules, there is no cost to the Treasury for the IRA proposal that is in the bill—and an amendment to remove the proposal was defeated yesterday. One of the issues that was raised is that there is a cost, but it does not take place until the sixth year. And there is a difference of opinion as to what that cost might be, anywhere from $10 to $17 billion a year.

But we have been told there is no point of order that can be raised because cost offsets are only required during the first 5 years.

I think that approach says to all of us that this is a mockery of this system. If you design things correctly, you can find ways to offer amendments and bring legislation forward that avoid points of order while we all know that, in the future, there is going to be a cost.

So, the first point here is that the underlying legislation is an example of how the rules are written to distort positions with respect to both cost and projected revenues to the Federal Government.

Second, people will say again the reason that this point of order should stand is because this amendment will cost the Federal Government billions of dollars.

That same argument was made in 1978 by Secretary Blumenthal, Secretary of the Treasury at the time. In those days, the amount of capital gains taxes flowing into the Treasury were much smaller than they are today. And Secretary Blumenthal said that if we reduced the capital gains rate from roughly 48 or 49 percent, where it was at that time, to 28 percent, it would cost the Federal Treasury about $2 billion a year.

Two billion dollars was roughly 20 percent of total capital gains revenue.

Secretary Blumenthal was wrong. There was not a cut in the flow of capital gains tax revenues to the Federal Government as a result of a lower capital gains tax rate. There actually was an increase of $2 billion, not a decrease. What Secretary Blumenthal said is something that is said over and over again to the point that most everyone accepts it. If you cut tax rates it would seem logical, so the argument goes, that the revenue that would be coming in would be lower.

Stop and think for a moment. Capital gains is a voluntary tax. You do not end up paying the tax unless you voluntarily sell an asset. When you voluntarily sell that asset you pay the tax to the Federal Government, regardless of what the rate is. But the key is that the decision to sell the asset is voluntary.

If you believe that the tax rate on capital gains is too high relative to other taxes, you are going to decide not to sell that asset. And if you do not sell that asset, there is no revenue to the Federal Government regardless of what that tax rate is.

So my second point as to why Members of the Senate should ignore the point of order is because this amendment actually will raise revenue for the Federal Government.

A recent study done by Allen Sinai—a well-known economist—indicated that a reduction in the capital gains rate to 15 percent would, in fact, increase the flow of funds into the Federal Government to the tune of $30 billion over a 5-year period.

There is one additional point I would like to make with respect to the point of order that will be lodged a little later on. It has to do with the luxury tax. A couple of years ago the Congress of the United States collectively said, "Let's tax the wealthy," and impose a luxury tax. After all, the only people who are going to pay this luxury tax are the wealthy, and they can afford to pay it.

But Congress forgot that the wealthy have a choice. If they think the price of a particular product is too high, they decide not to buy it. If they decide not to buy that particular product, guess who ends up paying the tax—it is paid by people who lose their jobs because the product they make does not sell.

All throughout the State of Florida, and I would say throughout many parts of this country, people have lost their jobs because it was politically expedient to tax the wealthy. It was suggested that we would collect $5 million a year. Let me say that again—$5 million, not billion—$5 million a year by imposing the luxury tax on boats, planes, furs, and jewelry.

It was now suggested in this bill we are going to repeal the luxury taxes—and I am glad for that repeal—and as a result of repealing it we are going to give up something like a half a million dollars in revenue to the Federal Government. A recent study estimated that the Government has lost over $14 million from the luxury taxes because so many businesses have shut down.

This is yet another example of what I think are mistakes in the cost estimates used to establish the effect of tax and economic policy.

Again, I know the point of order is going to be raised. I suggest to my colleagues there are several reasons why it ought to be defeated.

Who gains from a proposal to reduce the capital gains tax rate? I would make the claim that everyone gains, including the elderly and middle-income to lower income people. States will gain because many base their taxes on the income reported on Federal tax returns. They clearly would benefit if the amount of realizations from capital gains increased.

The economy would expand because of the lower cost of capital. Because of the lower cost of capital we would stimulate the creation of new jobs and new businesses; we would increase the pool of venture capital.

And as a result of these kinds of activities, all people will gain. A lower capital gains rate makes America more competitive. We would see an increase of funds into investment in new technologies, and we would see investment in minority enterprises increase.

One of the issues I know will be raised again is that a capital gains tax cut is only for the benefit of the wealthy. And, there again, I think you have to look at how these numbers are calculated. Suppose you are a retiree with an income of $10,000 a year. Let us also suppose that during your life you saved or invested in the stock of the company you worked for and you accumulated some 80,000 dollars' worth of stock. In your retirement years the only other source of income that you would have available to you would be the sale of that stock. So you decide to sell it.

Under the arguments that will be made as to why only the wealthy gain from a capital gains tax cut, in the year you sell that asset you are no longer counted as being in the $10,000-a-year income group. You are now a $90,000-a-year income earner. You are considered wealthy for that year. But for the rest of your life you have no other earnings, you have no other capital gains or no more capital assets you can sell. So for that year and that year only, you are "wealthy." To suggest that the benefits from a capital gains rate cut will only go to the wealthy is misleading.

The Wall Street Journal, in an editorial based upon a study that was done by former Treasury Assistant Secretary Paul Craig Roberts, from

IRS data for 1985, states that 45 percent of the benefits of a capital gains rate cut go to people who have incomes of $50,000 a year or less. In this study it shows that individuals making $10,000 or less actually get 20 percent of the benefits from a lower capital gains.

So I would make the argument that lower capital gains rates in fact are a benefit to everyone.

In a separate study done by the National Center for Policy Analysis, John Goodman, the president of that organization said, "Many people think capital gains income is important only to the rich." He goes on further to say, "In fact it is vital to the elderly middle class."

The study found that about one in three taxpayers over the age of 65 has a capital gain each year, compared with only 9 percent for younger taxpayers; almost half of the elderly taxpayers with an annual income of between $25,000 and $40,000 have a capital gain each year.

So again I make the argument that the capital gains tax cut really helps everyone.

I also have an article I ask unanimous consent to have printed in the RECORD.

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

ONE SMALL CAPITAL GAIN—ONE BIG TAX

(By George W. Walker III)

I had heard the arguments in favor of a reduction in the capital-gains tax. But why should people like me, who work in education; or people like my neighbor the plumber; or the electrician I know; or the guy who runs the local carpet store; or that nice young kid who works as a clerk at the home improvement center—why should any of us be in favor of a "trickle down" tax reform to benefit "the rich"?

I, for one, couldn't make up my mind. Then my wife and I bought a house, a weathered and abandoned old domicile in a nice neighborhood. We didn't want to live there; we just saw an opportunity to refurbish a run-down home and sell it for a modest profit. Theoretically, we took one of the greatest risks of all. We secured a home-equity loan on our family residence and used the money to purchase a "handyman's special."

I was convinced that it would be a great lesson for our four children. Even the 10-year-old worked right alongside us: washing, cleaning, scraping wallpaper, priming, sanding, painting, sawing wood, knocking out walls, climbing ladders, installing siding, tacking down carpets. And more.

We didn't do our own plumbing or electrical work. We hired that neighbor who's a plumber, and that fine man who had done some electrical work around our own home a couple of years ago. We were on a first-name basis with all the folks at the lumber store and the home improvement center. We were there two or three times a week for month after month, spending money to turn this neglected old structure into a gracious, inviting home.

We frequented the fabric store (my wife sewed all the curtains) and the building store (vinyl siding). We spent more money at the pizza shop (no time to cook), and they even began to recognize us at the drug store (bandages and liniment).

"But," I said confidently to my wife, "it will all be worth it after the house is sold, when we take the kids into one of those private rooms at the bank and I count out our profit for them to see in real cash, before we deposit it. 'This,' I will tell them, 'is what America's economic system is all about. If you're willing to take a reasonable risk and work hard, you may reap a financial reward that makes the whole adventure worthwhile!'"

A funny thing happened on the way to the bank. I stopped in to see our accountant. "Congratulations on your profit," he said. "But remember that today's capital gains tax is the same as your 28% personal income tax. And as a resident of New York state, you'll need to add on 7% in state taxes. So whatever your gross profit, be sure to set aside 35% for taxes."

We'd found a buyer willing to pay $60,000. We'd thought that would let us reach our goal of making about $6,000 on this venture. But deducting 35% of that would leave us with a net profit of $3,900. Our very conservative estimate is that the combined labor of all the family members who worked on this project totaled 1,200 hours. That means that after the capital-gains tax is paid, we netted about $3.25 per hour. We would have earned more standing at a cash register repeating the words "Paper or plastic?"

Will we try a venture like this again? I doubt it. And if the capital-gains tax bite discourages us from trying it again, that means we won't be hiring the plumber and the electrician; we won't be visiting the fabric and carpet stores; we won't be making home equity loan payments to our hungry local bank; we won't be writing checks that help pay the salary of that nice young man at the home improvement center.

I'm not rich. But what if I were? Then, instead of fixing up one old relic, maybe I'd be building an entire housing development. Maybe I'd be buying tens of thousands of yards of carpet. Maybe I'd be hiring scores of skilled laborers. Maybe I'd be pumping more money into more corners of my community and the economy than I can even imagine.

A tax break for the rich? So what? Scrooge McDuck, my children tell me, puts his money in a bin and swims in it. But there's evidence that most rich people don't do that. They spend their money. They invest it, risk it, try to get it to work for them so that it will grow. But that's hard to do without hiring people, buying materials and supplies, and spending in a multitude of other ways and places.

There's talk that a cut in the capital-gains tax just might make it through Congress before long. That'll be too late for us. We're tired and a little discouraged right now. But maybe something good will come out of it. Maybe a few people who aren't "rich" will read this article and then tell their legislators that we want that capital-gains tax cut.

It's not that we care about "the rich." We promise that we'll continue to envy them and resent them. Still, let that tax cut go through. We could use the jobs . . . and the prosperity.

Mr. MACK. I would like to take the time to read the entire article but I have a feeling there are others who would like to speak so I will try to pick out the important points in this article. It is written by George W. Walker III; he is the dean of students at Genesee Community College in New York.

I had heard the arguments in favor of a reduction in the capital-gains tax. But why should people like me, who work in education; or people like my neighbor the plumber; or the electrician I know; or the guy who runs the local carpet store; or that nice young kid who works as a clerk at the home improvement center—why should any of us be in favor of a "trickle down" tax reform to benefit "the rich"?

I, for one, couldn't make up my mind. Then my wife and I bought a house, a weathered and abandoned old domicile in a nice neighborhood. We didn't want to live there; we just saw an opportunity to refurbish a run-down home and sell it for a modest profit. Theoretically, we took one of the greatest risks of all. We secured a home-equity loan on our family residence and used the money to purchase a "handy-man's special."

I was convinced that it would be a great lesson for our four children. Even the 10-year-old worked right alongside us: washing, cleaning, scraping wallpaper, priming, sanding, painting, sawing wood, knocking out walls, climbing ladders, installing siding, tacking down carpets. And more.

We didn't do our own plumbing or electrical work. We hired that neighbor who's a plumber, and that fine man who had done some electrical work around our own home a couple of years ago. We were on a first-name basis with all the folks at the lumber store and the home improvement center.

"But," I said confidently to my wife, "it will all be worth it after the house is sold, when we take the kids into one of those private rooms at the bank and I count out our profit for them to see in real cash, before we deposit it. 'This,' I will tell them, 'is what America's economic system is all about. If you're willing to take a reasonable risk and work hard, you may reap a financial reward that makes the whole adventure worthwhile.'"

He then goes on to tell about how his accountant told him about what the tax rules were; and that he had 28 percent tax he was going to have to pay on the capital gains; that he had to pay an additional 7 percent State tax, so that his $6,000 profit became $3,900, and when they calculated the number of hours worked by the family at 1,200, they earned about $3.25 per hour per person.

Will we try a venture like this again? I doubt it. And if the capital gains tax bite discourages us from trying it again, that means we won't be hiring the plumber and the electrician; we won't be visiting the fabric and carpet stores; we won't be making home equity loan payments to our hungry local bank; we won't be writing checks that help pay the salary of that nice young man at the home improvement center.

He finishes up by saying.

It's not that we care about "the rich." We promise that we'll continue to envy them and resent them. Still, let that tax cut go through. We could use the jobs and the prosperity.

That brings me to my final point. Lowering the capital gains rate will increase the amount of venture capital that is available in the American market. If you go back to the period of time between 1969 and 1978 when we had very high capital gains tax rates in this country, there was an average of approximately $60 million a year avail-

able to the venture capital market. In 1978, we dropped that tax rate from 48 percent to 28 percent. The result was that 1 year later there was $600 million available in the venture capital market, 18 months later there was $900 million, and we hit a peak in 1987 at over $5 billion available in the venture capital market.

That money goes to new start-up businesses. It goes to risky enterprises. It goes to firms that are investing in new technologies—investing in America's future. It is the result of that kind of investment that jobs are created in America, that people feel that there is hope and opportunity for the future.

So, Mr. President, I ask my colleagues to support this amendment, this proposal that would reduce the capital gains rate from 28 percent to 15 percent. If we are truly serious about getting America moving again, I hope that we will adopt this amendment.

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. MACK. I yield the floor.

The PRESIDING OFFICER. The Senator from Wisconsin.

Mr. KASTEN. Mr. President, I rise in support of the amendment of the Senator from Florida [Mr. MACK] and I hope that all of our colleagues are going to work with us to support this amendment. We are talking about jobs. We are talking about growth. We are talking about opportunity. We are talking about the future.

This amendment is the same as the Kasten-Mack amendment which we have cosponsored together. We now have 16 cosponsors, I believe. And I believe that overall we are seeing developing support for the idea of working toward jobs and growth.

We see whenever we talk about capital gains and the capital gains efforts for reform, a kind of familiar pattern that develops. I just want to talk about it for 3 or 4 minutes here.

Every time we start talking about a reduction in the capital gains tax in order to create jobs and to get the economy moving again, a kind of a group of opponents we could call the envy patrol arrives, with a bunch of statistics, distribution tables, and we get into this kind of class warfare rhetoric. I hope we can avoid that today.

They claim, for example, that only the very rich benefit from reduced capital gains rates. The Senator from Florida talked about this in his remarks, and I want to emphasize it even more for a moment.

If you look back to the fact in 1978, for example, 14 million taxpayers sold capital assets, in 1988 the number was 8 million. Are all of those 14 million or all of those 8 million rich? Of course they are not. Every year we have millions upon millions of Americans, farmers, small business owners, investors, savers, retired seniors. All across America people have an opportunity to sell assets an they go ahead and sell them. Nearly one-third of all tax returns with capital gains are filed by taxpayers with regular incomes of less than $20,000. Nearly one-half of all of the taxpayers who report capital gains have other income of less than $50,000 a year. The great majority of all those reporting capital gains make less than a Member of Congress.

So we are not talking about some special small group. The elderly would especially benefit from a capital gains tax reform because they no longer earn wages and they frequently must sell assets simply to live. They do not have that wage income coming in, so they have to start to sell their assets simply to live, and then they are taxed at these prohibitively high rates. The elderly, while they represent only 11 percent of tax returns, represent 26 percent, over a quarter, of all the tax returns reporting capital gains.

Opponents of this tax cut constantly refer to the Joint Tax Committee numbers showing only the super rich benefit. But the Joint Tax Committee ignores what economists refer to as bunching. While capital gains build up, bunch up, if you will, over a number of years, they are all realized in 1 year, just once. So you get this bunching up, this accumulation and then the 1-year capital gains transaction. The sole proprietor with an annual income of $25,000 who retires by selling that small business, works for decades for that small business. The 1 year that he sells that small business, he bumps himself up on that distribution table and some would call him rich.

The struggling farmer who sells the family farm or passes it on to the next generation to avoid indebtedness in the same way is called rich. He has built up that farm, owned it for 30, 40 years. Simply the inflated value of that farm has forced him into a huge tax liability. And if he is like most farmers in the State of Wisconsin, he basically has all of his financial eggs in that one basket—that one farm. He constantly put money back into the farm and the one transaction he is penalized tremendously when he sells that farm and is unable to have a lower capital gains tax rate.

The senior citizen who sells retirement investments, or the senior citizen who sells the family home that 1 year might bump into that category of so-called rich.

In fact, you could argue that anyone with a large capital gain in any 1 year, regardless of how many years it took to build up that gain, would be categorized as rich.

Although opponents of the capital gains tax claim to be champions of tax fairness, they completely ignore the most unfair feature of capital gains taxation, and that is that this tax is often assessed on purely inflationary gains. That is why the Mack amendment, that is why this amendment calls for indexing capital gains for inflation, as well as lowering the rate to 15 percent. In fact, on long-term investments that are generally held by the middle class, the present capital gains tax leads to circumstances where investors pay taxes near or even in excess of 100 percent of their gain. The greatest irony is the so-called tax fairness campaign comes at a tremendous cost, a tremendous cost to the middle class, the poor, and the unemployed, who are denied the opportunities of a dynamic growing economy.

A low cost of capital and the incentive to put capital back to work is the very engine that drives the capitalist society. I fear that many of my colleagues who oppose this economic growth package have forgotten what most Americans want from their Government. What most Americans want is an economy that is growing, an economy that is creating new jobs, an economy that is providing hope for the future and hope for their children's future. And with capital gains tax reform, we can help assure that this growing economy, which is future oriented, can in fact become a reality.

We must pass the Mack amendment on capital gains, reform the capital gains, reduce the rates, but even more importantly, index capital gains for inflation so that people do not have to pay tax on the inflated value of their assets. Simply, they would pay a tax on the real value of the gain.

BUDGET DEFICIT

Mr. President, there has been much debate about the revenue impact from reducing the capital gains tax.

Let me say at the outset, that if one accepts the contention that a capital gains tax cut is good for the economy—and I think the evidence overwhelmingly supports this contention—then one can only conclude that this tax cut will raise tax revenue.

The historical record—and a majority of scholarly studies—have found an inverse relationship between capital gains taxes and revenues. Lower capital gains taxes raise revenue.

Lower rates induce more realizations—the so-called unlocking effect.

Lower rates increase the value of capital assets—because it increases the after-tax rate of return.

And finally, lower rates mean more small business formations, more job creation and more economic growth.

The Joint Committee on Taxation's static revenue estimates have been consistently wrong on capital gains. In 1978, Joint Tax predicted that the Steiger tax cut would immediately lose $2 billion. What happened? Revenues from capital gains taxes shot up $3 billion.

In 1978 when the tax rate was 50 percent, revenues were $9.1 billion. In 1984, following the 1981 tax cuts to 20 percent, revenues were $24.5 billion. That is a 60-percent increase in capital gains revenues. This tax cut helped spur economic growth—and increase overall tax revenues during the 1980's.

But now, because of the 1986 capital gains tax increase, investors have pulled out of the venture capital market—and they are paying less capital gains taxes than they paid throughout most of the 1980's.

Today, there is a new consensus emerging among economists—that a tax cut to 15 percent will raise Federal revenue in both the short- and long-term. This list includes Martin Feldstein, former CEA chairman, Lawrence Lindsey, former Harvard professor, Gary Robbins, former Treasury chief economist Michael Boskin—and now Allen Sinai, a respected financial economist.

Mr. President, I think it is important to note that Mr. Sinai is a mainstream Keynesian economist. He has been a critic of supply-side economics. He has previously opposed a lower capital gains tax as a giveaway to the rich.

But Mr. Sinai has run the numbers through his new economic model, taking into account the impact of a capital gains tax cut on the cost of U.S. capital and economic growth.

His model showed that our bill would increase GNP by about 0.4 percent a year through 1995, create 2.5 million new jobs and generate an additional $30 to $40 billion in revenues.

Sinai's estimates are even higher than the estimates of most supply-side economists.

Even microscopic changes in GNP growth—0.5 one-hundredths of a percent—will add $5 billion to baseline revenues.

I ask unanimous consent that Mr. Sinai's report on the revenue effects of this amendment be printed in the RECORD.

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

[American Council for Capital Formation]

THE MACROECONOMIC AND REVENUE EFFECTS OF A CAPITAL GAINS TAX REDUCTION

New research by Dr. Allen Sinai of The Boston Company Economic Advisors, Inc., shows that when macroeconomic "feedback" effects as well as unlocking of unrealized capital gains are estimated, a substantial reduction in capital gains taxes results in stronger economic growth, increased capital formation, and federal tax revenues that are larger than under current law.

PRELIMINARY RESULTS

Dr. Sinai's economic research shows that a reduction in capital gains tax rates would have positive macroeconomic effects on the overall economy. Lower capital gains taxes raise real and nominal GNP, increase capital spending and capital formation, positively affect the stock market, increase household net worth (household wealth), lower the cost of capital for business and increase business profits, increase employment and lower the unemployment rate, shift the financing of business activity away from debt to equity, and induce portfolio allocations by households toward equity to take account of changes in expected after-tax returns on stocks and bonds.

According to Dr. Sinai's estimates, a reduction in capital gains tax rates to 15 percent for all taxpayers (individual and corporate) would, by 1995, increase real GNP by 2.8 percent, or about 0.4 percent per year compared to a Baseline (see Table 1). Lower capital gains rates would also raise business investment by 1.3 percent per year and reduce the after-tax cost of capital by more than 4 percent per year. A further plus is the creation of an additional 2.5 million jobs over the 1990–1995 period. (Dr. Sinai notes that the estimate of new jobs created may be biased upward by the experience of the 1980s and may not be repeated in the 1990s due to slower growth of the labor force.)

Because of higher personal disposable income, increased household net worth and business cash flow, "multiplier" effects operate through economic and financial markets to generate additional tax revenues which, along with the unlocking of unrealized capital gains, result in higher revenues than would have occurred in the absence of a capital gains tax cut. As a result of the feedback effects from a stronger economy, significant additional personal income tax and other receipts would be realized, offsetting a large portion of the ex-ante cost of the tax cut. State and local government tax receipts would also be greater, and revenues from social security taxes and excise taxes would go up.

A capital gains tax reduction has special power in this regard, operating to raise the stock market, increase net worth, lower the cost of capital, and enhance consumption and investment to bring in additional tax revenues. With unlocking, as estimated by the Joint Committee on Taxation (JCT) or the Treasury Department's Office of Tax Analysis (OTA), the net tax effect lies in the range of $30 billion to $40 billion when cumulated over the 1990–1995 period.

THE SINAI MODEL

Dr. Sinai's analysis is based on simulations using the 1989 version of the Sinai-Boston Econometric Model of the U.S. Economy, a 425-plus equation model that explicitly takes account of aggregate demand, financing through sectoral flows-of-funds, balance sheet effects, corporate and personal finance, and forward-looking expectations as they affect U.S. financial markets and, in turn, the economy. The model estimates the macroeconomic feedback effects of a capital gains tax reduction on the economy, inflation, financial markets, the cost of capital, employment and unemployment, tax receipts, and other variables.

The model provides a number of channels by which tax policy affects the economy and financial markets—through interest rates, capital and user costs, the equity market and the dollar—with more "multiplier" effects than in traditional macroeconomic models.

The simulation results from various capital gains tax reductions point up the necessity of taking account of *all* tax effects from any change in policy in estimating the total effect on federal tax revenues.

CONCLUSION

Dr. Sinai's simulations are very relevant to the debate over the revenue impact of a cut in the capital gains tax rate. Macroeconomic feedback effects are not considered in the static revenue estimates made by the JCT and the OTA. Dr. Sinai's macrosimulations, coupled with the short-run "unlocking" effects that both the JCT and the OTA would accept, indicate that a reduction in the capital gains tax rate to 15 percent for individuals and corporations would result in a net increase in federal revenues over the 1990–1995 period.

TABLE 1.—*Macroeconomic effects of a capital gains tax reduction for all taxpayers*[1]

	Fiscal year 1990–95
Real GNP (total change, percent)	2.8
Employment (total change-millions)	2.5
Business capital spending (percent):	
Total—(average annual change)	1.3
Equipment	1.3
Structures	1.4
Cost of Capital after-tax cost of debt & equity (average annual change percent)	−4.1
S&P 500 stock index (average annual change percent)	16.3
Total Federal tax revenues[2] (billions)	$30–$40

[1] Preliminary results of a simulation of a 28 percent to 15 percent reduction in individual capital gains tax and 34 percent to 15 percent for corporate capital gains tax effective April 1, 1990. Prepared by Dr. Allen Sinai using the Sinai-Boston Model of the U.S. Economy. No holding period requirements are assumed.

[2] Revenue impact varies according to whether the Joint Committee estimate or the Treasury Department estimate of unlocking of unrealized capital gains is used.

The PRESIDING OFFICER. Who yields time?

Mr. BENTSEN. Mr. President, I suggest the absence of a quorum and that it be charged equally to both sides.

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 (Mr. EXON). Without objection, it is so ordered.

Mr. BENTSEN. Mr. President, I yield 10 minutes to myself.

The PRESIDING OFFICER. The Senator from Texas.

Mr. BENTSEN. Mr. President, I heard the distinguished Senator from Florida talking about the IRA, about the question of what it might do after that 5-year budget window; how this was carefully constructed to be in accord during the 5 years but afterward not really being that concerned.

Well, we were concerned, and the Joint Tax Committee has advised us that when you get estimates beyond 5 years, you cannot have the kind of exactness that you have in the short term. But it is their best judgment that as we constructed this piece of legislation, beyond the 5 years, the cost of the IRA is neutralized by the

revenue sources that we have provided in this legislation.

We have had some rather heated floor debates on the question of capital gains—contentious views. We did not include capital gains tax relief in this bill because we are trying to get a piece of legislation that is bipartisan, that does not reopen the old wounds, does not end up with seeing it compensated by a surtax on millionaires or some other form of tax increase on high-income individuals. We want to see that we get something signed.

In other words, a capital gains relief would be accompanied by a rate increase, and a definite veto, I assume, by the President. I am trying to work with my colleagues, the Democrats and Republicans, and the administration to see if we cannot get a bill that is signed into law.

I know the President has some problems with the bill, but I think we can work this out and work it out on a bipartisan basis. I have some of my colleagues who have some problems with the bill. You do not get total unanimity. But the adoption of this kind of amendment would set off a chain reaction that really would result in a partisan bill and a definite veto.

I think the problems of our cities are too severe, what we saw happen in Los Angeles, the 58 lives lost, over 1 billion dollars' worth of damage, that those things have to be addressed, and we ought to do it in a bipartisan effort.

I have long been a supporter of a capital gains rate differential, but the 1986 Tax Reform Act eliminated the differential. And I believe today there is not a substantial argument for the capital gains tax relief once you have had a substantial reduction in the personal income tax rate.

Frankly, I found the provision for capital gains and the justification and the locked in idea much more important when the capital gains rate was 90 percent, 70 percent, 50 percent. I can recall helping lead the fight on the Democratic side in the Finance Committee to cut the capital gains rate. Senator Cliff Hanson from Wyoming led that fight on the Republican side—talking about locked in assets, not the mobility in sales, and we won those points and we helped bring it down.

But in 1986, again you had the personal income tax rate at approximately 50 percent, and you brought it down to 28 percent. But part of the argument for being able to pay for that and backed by the Reagan administration was we are going to bring up the capital gains rate. That is where you are going to get some of the revenue to pay for bringing down the personal income tax rate. I went along with that.

Now we say let us not move the personal income tax rate but now let us cut, and that you are actually going to gain. That is not want the Joint Tax Committee says. The Joint Tax Committee says this will cost $47 billion—$47 billion—and no pay forward to take care of it. That is fun to vote for.

But that is the kind of thing that got us into the straitjacket we are in today. That is the sort of thing that gives us the enormous deficit we have in this budget today. That is why we have the kind of limitations on us trying to take care of some of these things we think have to be done for our country.

I believe at some point the partisan confrontation has to stop and cooperation begin. I think that time is now. That is what the American people want.

The point we were making in the tax bill that was passed in March is that you cannot be giving a tax cut to the highest income individuals at a time when middle-income folks are really struggling to make ends meet. If anything, we need to ensure that those at the top pay their fair share. Can this amendment be squared with that concern? No, it cannot.

Let us look at the evidence. Last year, at my request, the Joint Tax Committee did a distributional analysis of several proposals. Joint Tax did not have time to consider all the details of this one—for example, their analysis is based on a 45 percent exclusion rather than a 15-percent rate. But a 45-percent exclusion is very similar from an economic standpoint to a 15-percent rate. Thus, these numbers give you a pretty good idea about who would benefit from the proposal.

Their analysis shows that 67 percent of the benefit would go to the taxpayers making more than $200,000 a year. That is the top 1 percent. Of course, some people with lower incomes have some of the benefits. Of course, they do. But 67 percent goes to those making over $200,000, the top 1 percent.

I think we have to ask ourselves: Do those taxpayers need additional tax relief in a time of budget deficit? I think the answer is no. I do not think they can afford it. Let us look at what has happened over the last 10 years. CBO informs me that between 1980 and 1992 taxpayers at the top 1 percent of the income saw their real after-tax income more than double, rising to $478,000 in 1992 from $234,000 in 1980. That is in constant dollars, 1992 constant dollars. Their effective Federal tax rate fell nearly 10 percent to 28.8 from 31.7. Their average income tax burden, on the taxes they paid, fell by $16,400 compared to their burden under the 1980 tax regime.

Over the same time, income in the bottom 30 percent of the population went down while those in the middle stayed almost even.

In view of these facts, I do not believe that the top 1 percent deserve a major cut in taxes through capital gains while the cost will have to be borne by others.

I worked for many years to encourage investment entrepreneurship, long-term investment; healthy American businesses create jobs, and are the cornerstones of a strong economy. I was a businessman. I built a business in Houston, TX, before I came to this body. I understand their concerns. We should take seriously any tax proposal that may increase business development in entrepreneurial activity, but it ought to be paid for.

I think that is an important point. There is no revenue offset on this one. In actuality what we are being asked to do is float a bunch of hot checks to finance the Government's business. We have been running this Government on hot checks too long.

The way out of this mess is not to just do more of the same; it is to face the facts and to be responsible. And this amendment is not fiscally responsible. And it is not responsible government.

The Senator from Florida contends his proposal would increase GNP, create jobs, raise Federal revenues by billions of dollars. In essence, he believes it will pay for itself. I think he believes that. I think he is sincere in that. I have heard that argument before, and I am not convinced.

Some of the Members of this body feel that capital gains is the number one domestic priority. Let us remember we are talking about cutting taxes, and that budget deficit is a major hidden tax on every American. We simply cannot afford a $47 billion increase in the deficit.

This bill that we have is a good bill. It contains enterprise zones to address the problems of poverty in cities and rural areas, IRA's to address our national savings problem, extension of research and development, low-income housing, targeted jobs credit, pension supplementation, taxpayer bill of rights. All of those proposals are paid for in a responsible, defensible way. And the resurrection of the capital gains issue will put all of those items at risk.

For these reasons I oppose this amendment, and urge my colleagues to vote against it.

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

Mr. President, I yield 10 minutes to the distinguished Senator from New Jersey.

The PRESIDING OFFICER. The Senator from New Jersey is recognized for 10 minutes.

Mr. BRADLEY. Mr. President, I rise in opposition to the amendment offered by the distinguished Senator from Florida.

I know of his commitment to the issue and that he would like to see capital gains cut, and I think that he is a tenacious fighter for his position. Let me say to you that if our rates were at 50 and 70 percent, I think you could

make an argument for having a differential in the capital gains. But, as we discovered in 1986 when we held 35 committee hearings on the Tax Reform Act of 1986, groups would come in and ask us the same question. That is: How low should the rate go before you think the differential for capital gains would be unnecessary? They said, well, get the rate down to 27, 28, 29, and we could give up the differential for capital gains. That is what most people said when they came in.

There were some, a group that I just described, I who call pragmatists. They are the people who said if the rate goes down low enough, the overall rate, then we do not need a differential for capital gains.

Then there was another group that said essentially we do not care if the rate goes down to 3 percent, 5 percent, 8 percent, 10 percent. We believe that there should be a differential in the way we tax capital assets.

The committee and the Congress and President Reagan decided to side with the pragmatists. If the rate got low enough, we did not need a differential for capital gains. Those of us who made the argument also pointed out that once you have cut tax rates and eliminated loopholes, that to place other loopholes back into the Tax Code is not a free decision; it costs money; and that the inevitable result of the attempts to put back in the loopholes, as we began to see in 1990 with the 1990 Budget Act, were that rates were raised.

One of the reasons I voted against the Budget Act was because of that in 1990; that the inevitable result of putting back in a loophole will be to put pressure on rates. In a world where you have low rates, you either will increase the budget deficit by putting the loophole back in or you will put pressure on rates. Thee is no more free lunch when it comes to the loopholes.

I think that this issue is framed quite clearly on the issue of capital gains. To put back in an exclusion for capital gains immediately puts pressure on rates because you increase the deficit and you skew the distribution in favor of the wealthiest Americans. That is where we are.

Personally I think the best tax system is the tax system with the lowest possible tax rates for everybody. I believe that when we put a loophole in it puts pressure on tax rates, tax rates go back up, which means some people pay higher taxes, and a lot of people are able to pay lower taxes because they are able to take advantage of the various loopholes.

That brings us to the amendment of the distinguished Senator from Florida, an amendment which is a variation on the capital gains theme in that it provides a lower capital gains for lower income individuals but a 15-percent capital gains for everyone else. So it is a dramatic cut in capital gains.

I think there are just two points to make here in the time that I have. One point is who benefits from this even in its restructured form. And looking at the history of capital gains you find that in the recent era in which capital gains were reported there were about $130 billion to $140 billion in capital gains taken each year. The question is who took the capital gains.

Out of 114 million taxpayers, only about 15 percent of the taxpayers had any capital gains. So that means the overwhelming majority of taxpayers, 85 to 90 percent, had no capital gains at all. So, first of all, it goes to a very small number of taxpayers.

Then the question is, among those 15 percent of the taxpayers who take capital gains, how much capital gains do they take. You found that people earning under $20,000 a year got about 6 percent of the capital gains—6 percent now because the tax is a little lower in this amendment. It would be a little more than that, but not a lot. They took 6 percent of the capital gains, and the average capital gains tax savings was $60. So what the capital gains was worth to people earning under $20,000 was about $60.

People earning between $20,000 and $50,000 took 10 percent of the capital gains. People earning between $50,000 and $100,000 took 15 percent of the capital gains. And people earning over $100,000 took 68 percent of the capital gains, and their capital gains was about $35,000.

So to say, we opened this capital gains opportunity to everybody says to the people at $20,000, you get $60, and the people at $100,000 to $200,000, you get $35,000.

So on the issue of who wins, it is very clear who wins in the capital gains debate, if you are just doing an amendment similar to the Senator from Florida. The people who win are the people who have the most capital. Ninety percent of the assets, capital assets in America, are owned by the top 10 percent of the population. So there is no surprise that when you tax capital asset sales less, the people who benefit are the top 2 percent of the taxpayers in the country. And that is clearly posed by this amendment.

This is a well-known fact. That is reason enough to oppose the amendment. But the other reason is that it increases the deficit dramatically—$47 billion over 5 years; a $47 billion increase in the budget deficit, just like that.

I know there was a plan unveiled by a group of Republicans at the convention the other day. I am not sure whether the distinguished Senator from Florida was a member of that group. But I had a preliminary analysis done as to what would be the budget costs of that proposal, and over 5 years, the rough number, the preliminary number, came back to be about $840 billion over 5 years.

That, of course, is not the amendment offered by the Senator from Florida. He is more modest in his approach. It only deals with capital gains, and that cost is increasing the deficit $47 billion over the next 5 years. That is, unless you believe the magic elixir of capital gains will produce growth of 4, 5, 6, 7 percent annually; and that that differential of 8 percent, for those people who make $200,000 a year, is going to propel the engine of growth while we increase the deficit more and more, while we continue to have low productivity, while we continue to fail to make investment in the areas we need to make investment, and while our competitiveness is in danger worldwide. Capital gains is the answer to that, and therefore we get more growth? I do not think so.

So let me say to the distinguished Senator from Florida that I oppose his amendment, because I think those who will win with this amendment are the wealthiest Americans. I oppose his amendment, because it will dramatically increase the deficit that, sooner or later, we are going to have to face up to.

Do you want your taxpayer dollars going into the pockets of people who make more than $200,000, by providing this subsidy, or do you want them going to build roads, bridges, and the foundation for growth in the 21st century? It is a very fundamental choice that we have to make.

Finally, I would like to see a tax system with the lowest possible tax rate. And I guarantee the Senator from Florida that if this amendment ever passed in its present form, the very next set of amendments would be raising tax rates. And then you would be back like this, into a system where you have 70 percent tax rates on wages and 20 percent, 15 percent tax rates on capital.

I do not think that is the way we want to go. I think we need a low-rate tax system that is simple, with the fewest number of loopholes. And this loophole should not be among them.

I yield the floor.

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

The PRESIDING OFFICER. The Senator from Texas has 8 minutes remaining; and the Senator from Florida has 1 minute.

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

Mr. MITCHELL. Mr. President, just 6 weeks ago, this Senate Chamber rang with rhethoric about the Federal budget deficit. Speeches, statements with arms waving, and charts, all told us of how the Federal budget deficit is the most serious problem confronting the country, and why we should do something about it.

We all agree that it is a serious problem. We all agree that we must do something about it. But it is ironic that now we have before us a proposal

that will increase the Federal budget deficit by more than $47 billion. And that is a conservative estimate, because the estimate by the Joint Tax Committee was of a previous version of this legislation. And the version actually introduced by the Senator from Florida is more expensive than that analyzed by the Joint Tax Committee, because it has a lower rate for some of the affected States.

So now all of those Senators who said we have to act on the budget deficit are going to be called upon to vote on a proposal that will increase the deficit by $47 billion, and more. Now we will have a chance to match words and votes.

I hope that someone will make up a chart—and we have a lot of charts here—showing those Senators who voted for the balanced budget amendment, because they said it was so necessary, and then those who vote for this amendment; because then we will see the huge gap between words and deeds.

Let everyone understand that a vote for this amendment is a vote to increase the Federal budget deficit by more than $47 billion.

Mr. President, there is a great irony in this whole debate about capital gains. Six years ago, I stood on this Senate floor for a full day offering the major amendment to the then tax bill. I proposed to retain the capital gains differential because I think it makes sense, provided certain criteria are met.

The only Senators who then spoke against the capital gains tax differential were Republican Senators, who denounced my proposal as a gimmick, bad for the economy, and unfair. And President Reagan and Vice President Bush, then the administration, opposed my effort to retain the capital gains tax differential. And 49 out of 53 Republican Senators voted to abolish the differential. Now, it has become the solution to all of our problems.

The fact is, I believe that both the advantages and disadvantages of a capital gains differential have been wildly exaggerated by proponents and opponents alike. I believe that with certain criteria, properly targeted to encourage job creation—particularly in new and small-business ventures—as part of a fair, progressive tax system, and structured so as to not dramatically increase the deficit, it makes sense.

There is disagreement among our colleagues on that. But let us be realistic. This proposal, with no offset, which would increase the Federal budget deficit by $47 billion, simply cannot be acceptable to the Senate.

I urge my colleagues to defeat the amendment, and not to vote to waive the Budget Act for the purpose of this amendment.

Mr. BENTSEN. Mr. President, I yield 3 minutes to the distinguished Senator from Ohio.

Mr. METZENBAUM. Mr. President, I join the majority leader and the chairman of the Finance Committee in opposing this amendment. I am just amazed at what happens out here on the floor of the Senate. I think maybe I understand why the American people cannot understand why their Congress persons and their Senators are sort of out of touch.

The American people want us to balance the budget. The American people want us to help the American economy. The American people do not want to make the rich wealthier, as they have been doing for the last 11 or 12 years. But instead, they say to us: Do something about the economy; help us get back to work.

And the very Senators who come to this floor and fight for a constitutional amendment to balance the budget also bring us a proposal that will cost $47 billion over 5 years, and a continuing expense beyond that point.

I do not know where my colleague from Florida stands in his ratings with respect to the American Conservative Union, but my guess is that he has a high rating with that group. But this is not conservative.

Some may claim it is conservative to reduce the taxes on those who are best able to pay, but this Senator does not believe so. This Senator believes that the capital gains tax cut does not help the economy, will affect adversely our effort to balance the budget, and has no bearing, no propriety, no reason for being offered.

There is not a scintilla of evidence that a capital gains tax cut will help the economy. There is a lot of evidence that it will make the wealthy of this country a whole lot wealthier than they are at the present time.

This amendment is as wrong as it could possibly be. I hope that our colleague from Florida will recognize that this amendment should not be offered on this bill, because it will cost $47 billion—add to the deficit $47 billion—and the Nation is in no position to accept that kind of financial hit.

Mr. President, I think this amendment goes exactly in the wrong direction. I am sorry that it was offered. I sincerely hope it will be overwhelmingly defeated.

The PRESIDING OFFICER. There is 1 minute remaining on each side.

Who yields time?

Mr. BENTSEN. Mr. President, I yield that minute to myself.

Mr. President, I ask unanimous consent that a page from the CONGRESSIONAL RECORD be printed in the RECORD on the votes on the balanced budget amendment.

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

[Senate Voting Record No. 136]

FEDERAL HOUSING REGULATORY REFORM (CLOTURE)

(102d Congress, 2d Session, July 1, 1992 10:11 a.m.)

Bill No.: S. 2733.

Amendment No.: 2447.

Title: "Federal Housing Enterprises Regulatory Reform Act of 1992."

Subject: Dole, et al., second motion to close further debate on the Nickles, et al., amendment proposing a Constitutional amendment to balance the budget which requires that total outlays for any given fiscal year cannot exceed receipts unless three-fifths of the whole number of each House of Congress votes affirmatively for the specific excess outlays; requires a three-fifths vote of the whole number of each House to provide an increase in the public debt; requires the President to submit, prior to each fiscal year, a balanced budget; requires a mandatory vote of the whole number of each House to increase taxes; provides Congress with the authority to waive the provisions of this article in any fiscal year in which a declaration of war is in effect; and makes the article effective beginning with fiscal year 1988 or the second fiscal year after ratification, whichever is later.

NOTE: The cloture petition, presented on June 30 under the terms of a unanimous consent agreement entered into on June 26, was signed by Senators Dole, Thurmond, Seymour, Gramm, Symms, Nickles, Chafee, Domenici, Wallop, Murkowski, McCain, Lott, Craig, Coats, Simpson, Hatch, McConnell, and Stevens.

S. 2733: Vote Nos. 125–129, 132–137.

Result: Cloture motion rejected, 3/5ths not having voted in the affirmative.

YEAS (56)

Democrats (15 or 28%)

Boren, Breaux, Bryan, Daschle, DeConcini, Dixon, Glenn, Graham, Heflin, Hollings, Kohl, Reid, Robb, Shelby, Simon.

Republicans (41 or 100%)

Bond, Brown, Burns, Chafee, Coats, Cochran, Cohen, Craig, D'Amato, Danforth, Dole, Domenici, Durenberger, Garn, Gorton, Gramm, Grassley, Hatch, Hatfield, Jeffords, Kassebaum, Kasten, Lott, Lugar, Mack, McCain, McConnell, Murkowski, Nickles, Packwood, Pressler, Rudman, Seymour, Simpson, Smith, Specter, Stevens, Symms, Thurmond, Wallop, Warner.

NAYS (39)

Democrats (39 or 72%)

Adams, Akaka, Baucus, Bentsen, Biden, Bingaman, Bumpers, Burdick, Byrd, Conrad, Cranston, Dodd, Exon, Ford, Fowler, Gore, Harkin, Inouye, Johnston, Kennedy, Kerrey, Kerry, Lautenberg, Leahy, Levin, Lieberman, Metzenbaum, Mikulski, Mitchell, Moynihan, Nunn, Pryor, Riegle, Rockefeller, Sarbanes, Sasser, Wellstone, Wirth, Wofford.

Republicans (0 or 0%)

NOT VOTING (4)

Democrats (2)

Bradley—2PN.
Sanford—2.

Republicans (2)

Helms—3AY.
Roth—3.

LIVE PAIRS (1)

Present and giving: Pell (PY).
Receiving: Bradley (PN).
Explanation of absence:
1—Official Business.

2—Necessarily Absent.
3—Illness.
4—Other.
Symbols:
AY—Announced Yea.
AN—Announced Nay.
PY—Paired Yea.
PN—Paired Nay.

ANALYSIS OF ISSUE

Party Cohesion

Democrats—72%.
Republicans—100%.

Measure of Party Support on this Vote

For (56)

Democrats—15 or 27%.
Republicans—41 or 73%.

Against (39)

Democrats—39 or 100%.
Republicans—0 or 0%.

Mr. BENTSEN. Mr. President, there is no question but what we are talking about a $47 billion deficit in this with no way to pay for it. I will be making a point of order as a violation of the budget agreement at the appropriate time.

Mr. President, I think it is incredible that we can be debating, as we have, a balanced budget amendment—and some of us supporting it, as I certainly did—and then turn around and vote for a piece of legislation that would add to the hot checks that have put us in the straitjacket that we are in in this country today.

I strongly urge my colleagues to vote against this amendment.

Mr. MACK addressed the Chair.

The PRESIDING OFFICER. The Senator from Florida has 1 minute.

Mr. MACK. Mr. President, I will confine my remarks to two points.

One is, I told you so. The argument that is being made is that it is going to cost the Federal Treasury, the same argument made back in 1978, which turned out to be totally wrong at that time.

Second, with respect to the comments made about pragmatists, I appreciate those, but I will say, let us pragmatically look at what happened since 1987. In the venture capital market, we finally got up over $5 billion being available to new investment. That number has gone down to where this year it will probably be below $1 billion for the first time since 1979–80. There is an effect on capital formation as a result of the lack of the tax rate differential.

I urge my colleagues to support my amendment.

I yield back whatever time I have remaining.

Mr. SHELBY. Mr. President, I rise in support of the amendment offered by the Senator from Florida.

I am a cosponsor of legislation with the Senator from Florida and the Senator from Wisconsin that would cut the capital gains rate and index capital gains for inflation.

Mr. President, it is easy for those who want to provoke class warfare to paint capital gains as a tax break for the rich. I dispute that characterization for two reasons. First, it is simply false to assume that only the wealthy have assets to sell. Second, it is foolish to disregard the benefit to persons of all income levels, including those with no assets to sell, from the acceleration of the economy, if this amendment is adopted. Even low-income persons would benefit from the expansion of the economy if capital gains rates were to fall.

Senator MACK offered this amendment with an excellent example of who is affected by a high capital gains rate. He spoke of the family, a middle-class family, that purchased a house as an investment. They risked their own home by taking out a home equity loan to purchase the house and to pay for improvements. They put in sweat equity, with the entire family chipping in to improve the value of their investment.

They bought materials from the local hardware store. They bought fabric and paint to improve the appearance of the house. These purchases stimulated the local economy and helped to pay the salaries of employees at these stores. They hired skilled labor to fix the plumbing and the wiring, which injected more money into that local economy. In improving this house, they increased its value. This increase in value was probably duly noted by the tax assessor, who was now able to charge more for the property.

Under this scenario, who benefits? The family that took the risk in buying the house and put in the labor and effort to improve the house would presumably benefit from their efforts. Certainly there is no one here that would dispute that they earned whatever profit they made. But who else benefited?

The local economy. The workers at the home improvement store. The workers in the fabric store. The local plumber and the town's electrician benefited. Ask these people what lowering the capital gains rate means to them.

Mr. President, consider another example. What about the farmer and his wife, whose sole asset is their farm. They work their land for 30 years, putting every bit of savings back into the purchase of more land, in order to expand their farm. Buying land is their means of saving for retirement. And at the end of 30 years, it is time to get their money out so that they can pay for their retirement and the medical expenses that develop later in life. Over 30 years, their land has appreciated in value. However, a significant portion of that appreciation comes from inflation. Do we account for that inflation factor now? No, we tax the gain as if it were the Government's due. This couple may have never earned more than $30,000 or $40,000 in a year. Are these rich people? Are these the evil wealthy that do not deserve any sort of tax break? Of course not, Mr. President.

Our Tax Code should encourage Americans to invest. We should encourage Americans to take the risk of investing in assets, hoping for capital appreciation. It is through these investments that jobs are created. It is not primarily the wealthy that benefit; the beneficiaries of a lower capital gains rate include all sectors of the economy. All Americans benefit from a more vital economy.

I strongly support the amendment offered by my colleague from Florida and I urge the Senate to adopt it.

Mr. BENTSEN addressed the Chair.

The PRESIDING OFFICER. The Senator from Texas.

There are 14 seconds remaining under the discretion of the Senator from Texas.

Mr. BENTSEN. I yield back the remainder of my time.

The PRESIDING OFFICER. All time has been yielded back.

Mr. BENTSEN. Mr. President, I raise the point of order that the pending amendment violates section 311(a) of the Congressional Budget Act of 1974.

Mr. MACK. Mr. President, I move to waive any provision of titles III or IV of the Budget Act that impinges upon my amendment.

Mr. BENTSEN. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Florida.

The yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. FORD. I announce that the Senator from North Dakota [Mr. BURDICK] and the Senator from Tennessee [Mr. GORE] are necessarily absent.

Mr. SIMPSON. I announce that the Senator from Oregon [Mr. HATFIELD], the Senator from Oklahoma [Mr. NICKLES], and the Senator from New Hampshire [Mr. RUDMAN] 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 North Carolina [Mr. HELMS] would vote "yea."

The PRESIDING OFFICER (Mr. KERREY). Are there any other Senators in the Chamber who desire to vote?

The yeas and nays resulted—yeas 37, nays 57, as follows:

[Rollcall Vote No. 188 Leg.]

YEAS—37

Bond	Cochran	Garn
Brown	Craig	Gorton
Burns	D'Amato	Gramm
Coats	Dole	Grassley

Hatch	McCain	Smith
Heflin	McConnell	Specter
Hollings	Murkowski	Stevens
Kassebaum	Pell	Symms
Kasten	Pressler	Thurmond
Lieberman	Roth	Wallop
Lott	Seymour	Warner
Lugar	Shelby	
Mack	Simpson	

NAYS—57

Adams	Dixon	Levin
Akaka	Dodd	Metzenbaum
Baucus	Domenici	Mikulski
Bentsen	Durenberger	Mitchell
Biden	Exon	Moynihan
Bingaman	Ford	Nunn
Boren	Fowler	Packwood
Bradley	Glenn	Pryor
Breaux	Graham	Reid
Bryan	Harkin	Riegle
Bumpers	Inouye	Robb
Byrd	Jeffords	Rockefeller
Chafee	Johnston	Sanford
Cohen	Kennedy	Sarbanes
Conrad	Kerrey	Sasser
Cranston	Kerry	Simon
Danforth	Kohl	Wellstone
Daschle	Lautenberg	Wirth
DeConcini	Leahy	Wofford

NOT VOTING—6

Burdick	Hatfield	Nickles
Gore	Helms	Rudman

The PRESIDING OFFICER. On this vote, the yeas are 37, the nays 57.

The amendment of the Senator from Florida, if adopted and enacted into law, would cause revenues to fall below the appropriate level of total revenues for fiscal years 1993–1997, set forth in the concurrent resolution on the budget, House Concurrent Resolution 287, by more than $45 billion, in violation of section 311(a) of the Congressional Budget Act of 1974. The point of order is sustained, and the amendment fails.

RAIL SAFETY ENFORCEMENT AND REVIEW ACT

Mr. BENTSEN. Mr. President, I ask that the Chair lay before the Senate a message from the House of Representatives on H.R. 2607.

The PRESIDING OFFICER laid before the Senate the following message from the House of Representatives:

Resolved, That the House agree to the amendment of the Senate to the bill (H.R. 2607) entitled "An Act to authorize activities under the Federal Railroad Safety Act of 1970 for fiscal years 1992 and 1993, and for other purposes", with the following amendments:

In lieu of the matter inserted by said amendment, insert:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Rail Safety Enforcement and Review Act".

SEC. 2. ISSUANCE OF REGULATIONS.

Section 202 of the Federal Railroad Safety Act of 1970 (45 U.S.C. 431) is amended—

(1) in subsection (i)(1), by striking "such rules, regulations, orders, and standards as may be necessary" and inserting in lieu thereof "rules, regulations, orders, and standards";

(2) in subsection (n)—

(A) by striking "such rules, regulations, orders, and standards as may be necessary" and inserting in lieu thereof "rules, regulations, orders, and standards";

(B) by striking ", including" and inserting in lieu thereof "on railroad bridges. At a minimum, the Secretary shall provide";

(C) by striking "such as" and inserting in lieu thereof "including"; and

(D) by striking "relating to instances when boats shall be used" and inserting in lieu thereof "for the use of boats when work is performed on bridges located over bodies of water";

(3) in subsection (o)(1), by striking "such rules, regulations, orders, and standards as may be necessary" and inserting in lieu thereof "rules, regulations, orders, and standards"; and

(4) in subsection (q), by striking "such rules, regulations, orders, and standards as may be necessary" and inserting in lieu thereof "rules, regulations, orders, and standards".

SEC. 3. REMEDIAL ACTIONS.

(a) REGULATIONS.—The Secretary of Transportation (hereafter in this Act referred to as the "Secretary") shall issue regulations to require that any railroad notified by the Secretary that assessment of a civil penalty will be recommended for a failure to comply with a provision of the Federal railroad safety laws, as such term is defined in section 212(e) of the Federal Railroad Safety Act of 1970 (45 U.S.C. 441(e)), or any rule, regulation, order, or standard issued under such provision, shall report to the Secretary, within 30 days after the end of the month in which such notification is received, actions taken to remedy that failure.

(b) EXPLANATION OF DELAY.—Regulations issued under subsection (a) shall provide that, if appropriate remedial actions cannot be taken by a railroad within such 30-day period, such railroad shall submit to the Secretary an explanation of the reasons for any delay.

(c) SCHEDULE FOR REGULATIONS.—The Secretary shall—

(1) within 9 months after the date of enactment of this Act, issue a notice of proposed rulemaking for regulations to implement this section; and

(2) within 2 years after the date of enactment of this Act, issue final regulations to implement this section.

SEC. 4. ENFORCEMENT.

(a) MINIMUM AND MAXIMUM PENALTIES.—(1) Section 209(b) of the Federal Railroad Safety Act of 1970 (45 U.S.C. 438(b)), section 6 of the Act of March 2, 1893, and section 4 of the Act of April 14, 1910 (45 U.S.C. 6 and 13; commonly referred to as the "Safety Appliance Acts"), section 7 of the Act of May 6, 1910 (45 U.S.C. 43; commonly referred to as the "Accident Reports Act"), section 25(h) of the Interstate Commerce Act (49 U.S.C. App. 26; commonly referred to as the "Signal Inspection Act"), and section 9 of the Act of February 17, 1911 (45 U.S.C. 34; commonly referred to as the "Locomotive Inspection Act") are each amended by striking "$250" and inserting in lieu thereof "$500".

(2) Section 5(a)(1) of the Act of March 4, 1907 (45 U.S.C. 64a(a)(1); commonly referred to as the "Hours of Service Act") is amended by striking "penalty of up to $1,000 per violation, as the Secretary of Transportation deems reasonable," and inserting in lieu thereof "civil penalty, as the Secretary of Transportation deems reasonable, in an amount not less than $500 nor more than $10,000, except that where a grossly negligent violation or a pattern of repeated violations has created an imminent hazard of death or injury to persons, or has caused death or injury, a penalty of not to exceed $20,000 may be assessed, and".

(3) Section 2 of the Act of May 6, 1910 (45 U.S.C. 39; commonly referred to as the "Accident Reports Act") is amended by striking "one hundred dollars" and inserting in lieu thereof "$500".

(4) Section 3711(c)(2) of title 31, United States Code, is amended by striking "$250" and inserting in lieu thereof "$500".

(b) REGIONAL ENFORCEMENT PILOT PROJECT.—(1) The Secretary shall establish a pilot project in more than one region of the Federal Railroad Administration to demonstrate the benefits that may accrue to the Federal railroad safety program from assigning an attorney, who is a Federal employee within the Department of Transportation, to regional offices of the Federal Railroad Administration to perform initial case review, assess penalties, settle cases, and provide legal advice to Federal Railroad Administration regional personnel on enforcement and other issues, as compared to performing such functions at the headquarters level.

(2) The pilot program shall be completed within 18 months after the date of enactment of this Act.

(3) Within 2 years after the date of enactment of this Act, the Secretary shall submit a report to the Congress describing the results of the pilot program. Factors to be considered in the report shall include—

(A) the speed, volume, and effectiveness of civil penalty actions;

(B) the efficiency of the delivery of legal advice on safety issues;

(C) the financial and other costs of assigning attorneys in each region;

(D) the effects on uniformity of enforcement resulting from performing in the regions of the Federal Railroad Administration the functions described in paragraph (1); and

(E) the advisability of assigning attorneys to some or all of the regions of the Federal Railroad Administration.

(c) CONSIDERATIONS FOR COMPROMISE OF CIVIL PENALTIES.—(1) Section 209(c) of the Federal Railroad Safety Act of 1970 (45 U.S.C. 438(c)) is amended by inserting "In compromising a civil penalty assessed under this section, the Secretary shall take into account the nature, circumstances, extent, and gravity of the violation committed, and, with respect to the person found to have committed such violation, the degree of culpability, any history of prior or subsequent offenses, ability to pay, effect on ability to continue to do business, and such other matters as justice may require." after "referral to the Attorney General.".

(2) Section 5(a)(1) of the Act of March 4, 1907 (45 U.S.C. 64a(a)(1); commonly referred to as the "Hours of Service Act") is amended by adding at the end the following sentence: "In compromising a civil penalty assessed under this section, the Secretary shall take into account the nature, circumstances, extent, and gravity of the violation committed, and, with respect to the person found to have committed such violation, the degree of culpability, any history of prior or subsequent offenses, ability to pay, effect on ability to continue to do business, and such other matters as justice may require.".

(3) Section 6 of the Act of March 2, 1893 (45 U.S.C. 6; commonly referred to as the "Safety Appliance Acts") is amended by adding at the end the following sentence: "In compromising a civil penalty assessed under this section, the Secretary shall take into account the nature, circumstances, extent, and gravity of the violation committed, and, with respect to the person found to have committed such violation, the degree of culpability, any history of prior or subsequent offenses, ability to pay, effect on ability to continue to do business, and such other matters as justice may require.".

(4) Section 4 of the Act of April 14, 1910 (45 U.S.C. 13; commonly referred to as the "Safety Appliance Acts") is amended by adding at the end the following sentence: "In compromising a civil penalty assessed under this section, the Secretary shall take into account the nature, circumstances, extent, and gravity of the violation committed, and, with respect to the person found to have committed such violation, the degree of culpability, any history of prior or subsequent offenses, ability to pay, effect on ability

to continue to do business, and such other matters as justice may require.".

(5) Section 7 of the Act of May 6, 1910 (45 U.S.C. 43; commonly referred to as the "Accident Reports Act") is amended by adding at the end the following sentence: "In compromising a civil penalty assessed under this section, the Secretary shall take into account the nature, circumstances, extent, and gravity of the violation committed, and, with respect to the person found to have committed such violation, the degree of culpability, any history of prior or subsequent offenses, ability to pay, effect on ability to continue to do business, and such other matters as justice may require.".

(6) Section 25(h) of the Interstate Commerce Act (49 U.S.C. App. 26; commonly referred to as the "Signal Inspection Act") is amended by adding at the end the following sentence: "In compromising a civil penalty assessed under this section, the Secretary shall take into account the nature, circumstances, extent, and gravity of the violation committed, and, with respect to the person found to have committed such violation, the degree of culpability, any history of prior or subsequent offenses, ability to pay, effect on ability to continue to do business, and such other matters as justice may require.".

(7) Section 9 of the Act of February 17, 1911 (45 U.S.C. 34; commonly referred to as the "Locomotive Inspection Act") is amended by adding at the end the following sentence: "In compromising a civil penalty assessed under this section, the Secretary shall take into account the nature, circumstances, extent, and gravity of the violation committed, and, with respect to the person found to have committed such violation, the degree of culpability, any history of prior or subsequent offenses, ability to pay, effect on ability to continue to do business, and such other matters as justice may require.".

SEC. 5. REVIEW OF AGENCY ACTION.

(a) IN GENERAL.—(1) Section 202(f) of the Federal Railroad Safety Act of 1970 (45 U.S.C. 431(f)) is amended to read as follows:

"(f) Any final agency action taken by the Secretary under this title or under any of the other Federal railroad safety laws, as defined in section 212(e) of this title, is subject to judicial review as provided in chapter 7 of title 5, United States Code. Except as provided in section 203(e) of this title, any proceeding to review such final agency action shall be brought in the appropriate court of appeals as provided by and in the manner prescribed in chapter 158 of title 28, United States Code.".

(2) The amendment made by subsection (a) shall apply to final agency actions of the Secretary whenever taken, except that the amendment shall not apply in a case where a civil action has been brought before the date of enactment of this Act.

(b) FEDERAL RAILROAD SAFETY LAWS.—Section 212(e) of the Federal Railroad Safety Act of 1970 (45 U.S.C. 441(e)) is amended by inserting "the Sanitary Food Transportation Act of 1990 (49 U.S.C. App. 2801 note)," before "and those laws transferred".

(c) TECHNICAL AMENDMENTS.—(1) Section 2341(3)(B) of title 28, United States Code, is amended by inserting "or the Secretary of Transportation" after "Secretary of Agriculture".

(2) Section 2342 of title 28, United States Code, is amended—

(A) by striking "and" at the end of paragraph (5);

(B) by striking the period at the end of paragraph (6) and inserting in lieu thereof "; and"; and

(C) by adding at the end the following new paragraph:

"(7) all final agency actions described in section 202(f) of the Federal Railroad Safety Act of 1970.".

SEC. 6. PROTECTION OF RAILROAD SAFETY ENFORCEMENT PERSONNEL.

Section 1114 of title 18, United States Code, is amended by inserting "any officer or employee of the Federal Railroad Administration assigned to perform investigative, inspection, or law enforcement functions," after "any employee of the Coast Guard assigned to perform investigative, inspection or law enforcement functions,".

SEC. 7. POWER BRAKE SAFETY.

Section 202 of the Federal Railroad Safety Act of 1970 (45 U.S.C. 431) is amended by adding at the end the following new subsection:

"(r) POWER BRAKE SAFETY.—(1) The Secretary shall conduct a review of the Department of Transportation's rules with respect to railroad power brakes, and, not later than December 31, 1993, shall revise such rules based on such safety data as may be presented during that review.

"(2) In carrying out paragraph (1), the Secretary shall, where applicable, prescribe standards regarding dynamic braking equipment.

"(3)(A) The Secretary shall require 2-way end of train devices (or devices able to perform the same function) on road trains other than locals, road switchers, or work trains to enable the initiation of emergency braking from the rear of a train. The Secretary shall promulgate rules as soon as possible, but not later than December 31, 1993, requiring such 2-way end of train devices. Such rules shall, at a minimum—

"(i) set standards for such devices based on performance;

"(ii) prohibit any railroad, on or after the date that is one year after promulgation of such rules, from acquiring any end of train device for use on trains which is not a 2-way device meeting the standards set under clause (i);

"(iii) require that such trains be equipped with 2-way end of train devices meeting such standards not later than 4 years after promulgation of such rules; and

"(iv) provide that any 2-way end of train device acquired for use on trains before such promulgation shall be deemed to meet such standards.

"(B) The Secretary may consider petitions to amend the rules promulgated under subparagraph (A) to allow the use of alternative technologies which meet the same basic performance requirements established by such rules.

"(C) In developing the rules required by subparagraph (A), the Secretary shall consider data presented under paragraph (1).

"(4) The Secretary may exclude from the rules required by paragraphs (1), (2), and (3) any category of trains or rail operations if the Secretary determines that such an exclusion is in the public interest and is consistent with railroad safety. The Secretary shall make public the reasons for granting any such exclusion. The Secretary shall at a minimum exclude from the requirements of paragraph (3)—

"(A) trains that have manned cabooses;

"(B) passenger trains with emergency brakes;

"(C) trains that operate exclusively on track that is not part of the general railroad system;

"(D) trains that do not exceed 30 miles per hour and do not operate on heavy grades, except for any categories of such trains specifically designated by the Secretary; and

"(E) trains that operate in a push mode.".

SEC. 8. TRACK SAFETY.

Section 202 of the Federal Railroad Safety Act of 1970 (45 U.S.C. 431), as amended by this Act, is further amended by adding at the end the following new subsection:

"(s) TRACK SAFETY.—(1) The Secretary shall, within 6 months after the date of enactment of this subsection, initiate a review of the Department of Transportation's standards relating to track safety. Within 2 years after the date of enactment of this subsection, the Secretary shall issue rules, regulations, orders, or standards to revise such track safety standards, considering such safety data as may be presented during that review and the General Accounting Office report submitted under paragraph (3).

"(2) The review required under paragraph (1) shall, at a minimum, include—

"(A) an evaluation of procedures associated with maintaining and installing continuous welded rail and its attendant structure;

"(B) an evaluation of the need for revisions to rules with respect to track subject to exception from track safety standards; and

"(C) an evaluation of employee safety.

"(3) The General Accounting Office shall conduct a study of the effectiveness of the Secretary's enforcement of track safety standards, with particular attention to recent relevant railroad accident experience and data. Within one year after the date of enactment of this subsection, the General Accounting Office shall submit to the Secretary and Congress a report on the results of such study, together with recommendations for improving such enforcement.".

SEC. 9. APPLICABILITY OF RULES, REGULATIONS, ORDERS, AND STANDARDS.

(a) AMENDMENT.—(1) Section 209(a) of the Federal Railroad Safety Act of 1970 (45 U.S.C. 438(a)) is amended by striking the parenthetical clause and inserting in lieu thereof the following: "(including but not limited to a railroad; any manager, supervisor, official, or other employee or agent of a railroad; any owner, manufacturer, lessor, or lessee of railroad equipment, track, or facilities; any independent contractor providing goods or services to a railroad; and any employee of such owner, manufacturer, lessor, lessee, or independent contractor)".

(2) Section 5(a)(1) of the Act of March 4, 1907 (45 U.S.C. 64a(a)(1); commonly referred to as the "Hours of Service Act") is amended by striking the parenthetical clause and inserting in lieu thereof the following: "(including but not limited to a railroad; any manager, supervisor, official, or other employee or agent of a railroad; any owner, manufacturer, lessor, or lessee of railroad equipment, track, or facilities; any independent contractor providing goods or services to a railroad; and any employee of such owner, manufacturer, lessor, lessee, or independent contractor)".

(3) Section 6 of the Act of March 2, 1893 (45 U.S.C. 6; commonly referred to as the "Safety Appliance Acts") is amended by striking the first parenthetical clause and inserting in lieu thereof the following: "(including but not limited to a railroad; any manager, supervisor, official, or other employee or agent of a railroad; any owner, manufacturer, lessor, or lessee of railroad equipment, track, or facilities; any independent contractor providing goods or services to a railroad; and any employee of such owner, manufacturer, lessor, lessee, or independent contractor)".

(4) Section 3 of the Act of March 2, 1903 (45 U.S.C. 10; commonly referred to as the "Safety Appliance Acts") is amended by striking the parenthetical clause and inserting in lieu thereof the following: "(including but not limited to a railroad; any manager, supervisor, official, or other employee or agent of a railroad; any owner, manufacturer, lessor, or lessee of railroad equipment, track, or facilities; any independent contractor providing goods or services to a railroad; and any employee of such owner, manufacturer, lessor, lessee, or independent contractor)".

(5) Section 4 of the Act of April 14, 1910 (45 U.S.C. 13; commonly referred to as the "Safety Appliance Acts") is amended by striking the first parenthetical clause and inserting in lieu thereof the following: "(including but not limited to a railroad; any manager, supervisor, offi-

cial, or other employee or agent of a railroad; any owner, manufacturer, lessor, or lessee of railroad equipment, track, or facilities; any independent contractor providing goods or services to a railroad; and any employee of such owner, manufacturer, lessor, lessee, or independent contractor)".

(6) Section 7 of the Act of May 6, 1910 (45 U.S.C. 43; commonly referred to as the "Accident Reports Act") is amended by striking the first parenthetical clause and inserting in lieu thereof the following: "(including but not limited to a railroad; any manager, supervisor, official, or other employee or agent of a railroad; any owner, manufacturer, lessor, or lessee of railroad equipment, track, or facilities; any independent contractor providing goods or services to a railroad; and any employee of such owner, manufacturer, lessor, lessee, or independent contractor)".

(7) Section 25(h) of the Interstate Commerce Act (49 U.S.C. App. 26; commonly referred to as the "Signal Inspection Act") is amended by striking the first parenthetical clause and inserting in lieu thereof the following: "(including but not limited to a railroad; any manager, supervisor, official, or other employee or agent of a railroad; any owner, manufacturer, lessor, or lessee of railroad equipment, track, or facilities; any independent contractor providing goods or services to a railroad; and any employee of such owner, manufacturer, lessor, lessee, or independent contractor)".

(8) Section 9 of the Act of February 17, 1911 (45 U.S.C. 34; commonly referred to as the "Locomotive Inspection Act") is amended by striking the first parenthetical clause and inserting in lieu thereof the following: "(including but not limited to a railroad; any manager, supervisor, official, or other employee or agent of a railroad; any owner, manufacturer, lessor, or lessee of railroad equipment, track, or facilities; any independent contractor providing goods or services to a railroad; and any employee of such owner, manufacturer, lessor, lessee, or independent contractor)".

(b) EFFECT ON OTHER LAW.—Nothing in the amendment made by subsection (a) shall affect the authority or responsibilities of the Secretary of Labor under the Occupational Safety and Health Act of 1970.

SEC. 10. LOCOMOTIVE CRASHWORTHINESS AND WORKING CONDITIONS.

Section 202 of the Federal Railroad Safety Act of 1970 (45 U.S.C. 431), as amended by this Act, is further amended by adding at the end the following new subsection:

"(t) LOCOMOTIVE CRASHWORTHINESS AND WORKING CONDITIONS.—(1) The Secretary shall, within 30 months after the date of enactment of this subsection, complete a rulemaking proceeding to consider prescribing regulations to improve the safety and working conditions of locomotive cabs. Such proceeding shall assess—

"(A) the adequacy of Locomotive Crashworthiness Requirements Standard S-580, or any successor standard thereto, adopted by the Association of American Railroads in 1989, in improving the safety of locomotive cabs; and

"(B) the extent to which environmental, sanitary, and other working conditions in locomotive cabs affect productivity, health, and the safe operation of locomotives.

"(2) In support of the proceeding required under paragraph (1), the Secretary shall conduct research and analysis, including computer modeling and full-scale crash testing, as appropriate, to consider—

"(A) the costs and benefits associated with equipping locomotives with—

"(i) braced collision posts;

"(ii) rollover protection devices;

"(iii) deflection plates;

"(iv) shatterproof windows;

"(v) readily accessible crash refuges;

"(vi) uniform sill heights;

"(vii) anticlimbers, or other equipment designed to prevent overrides resulting from head-on locomotive collisions;

"(viii) equipment to deter post-collision entry of flammable liquids into locomotive cabs;

"(ix) any other devices intended to provide crash protection for occupants of locomotive cabs; and

"(x) functioning and regularly maintained sanitary facilities; and

"(B) the effects on train crews of the presence of asbestos in locomotive components.

"(3) If on the basis of the proceeding required under paragraph (1) the Secretary determines not to prescribe regulations, the Secretary shall report to Congress on the reasons for that determination.".

SEC. 11. RAILROAD RADIO COMMUNICATIONS.

(a) SAFETY INQUIRY.—The Secretary shall, within 18 months after the date of enactment of this Act and in consultation with the National Railroad Passenger Corporation, freight and commuter railroads, rail equipment manufacturers, and railroad employees, conduct a safety inquiry regarding the Department of Transportation's railroad radio standards and procedures. At a minimum, such inquiry shall include assessment of—

(1) the advantages and disadvantages of requiring that every locomotive (and every caboose, where applicable) be equipped with a railroad voice communications system capable of permitting a person in the locomotive (or caboose) to engage in clear two-way communications with persons on following and leading trains and with train dispatchers located at railroad stations;

(2) a requirement that replacement radios be made available at intermediate terminals;

(3) the effectiveness of radios in ensuring timely emergency response;

(4) the effect of interference and other disruptions of radio communications on safe railroad operation;

(5) how advanced communications technologies such as digital radio can be implemented to best enhance the safety of railroad operations;

(6) the status of advanced train control systems that are being developed, and the implications of such systems for effective railroad communications; and

(7) the need for minimum Federal standards to ensure that such systems provide for positive train separation and are compatible nationwide.

(b) REPORT TO CONGRESS.—The Secretary shall submit to Congress within 4 months after the completion of such inquiry a report on the results of the inquiry along with an identification of appropriate regulatory action and specific plans for taking such action.

SEC. 12. AUTHORIZATION OF APPROPRIATIONS.

Section 214(a) of the Federal Railroad Safety Act of 1970 (45 U.S.C. 444(a)) is amended to read as follows:

"(a) There are authorized to be appropriated to carry out this Act not to exceed $54,352,000 for fiscal year 1992, $68,283,000 for fiscal year 1993, and $71,690,000 for fiscal year 1994. The Secretary is authorized to request, receive, and use payments from non-Federal sources for expenses incurred in training safety employees of private industry, State and local authorities, or other public authorities, other than State rail safety inspectors participating in training pursuant to section 206 of this title.".

SEC. 13. TOTAL QUALITY MANAGEMENT IN SAFETY ASSESSMENTS.

In all comprehensive, multidiscipline safety assessments of railroads, the conduct of which is initiated by the Secretary between the date of enactment of this Act and the end of fiscal year 1993, the Secretary shall evaluate the use and effectiveness of total quality management techniques, if any, on the safety practices of the railroad being assessed. The Secretary shall include findings and conclusions based on such evaluation in each such safety assessment report.

SEC. 14. LOCAL RAIL FREIGHT ASSISTANCE PROGRAM.

Section 5(q) of the Department of Transportation Act (49 U.S.C. App. 1654(q)) is amended—

(1) by inserting "There are authorized to be appropriated to the Secretary for the purposes of this section not to exceed $16,000,000 for fiscal year 1992, $25,000,000 for fiscal year 1993, and $30,000,000 for fiscal year 1994." after "fiscal year 1991."; and

(2) by striking "any period after September 30, 1991" and inserting in lieu thereof "any period after September 30, 1994".

SEC. 15. PROCEDURE FOR DETERMINING ACCIDENT REPORTING THRESHOLD.

(a) GENERAL RULE.—In establishing or modifying a monetary damage threshold for the reporting of railroad accidents, the Secretary shall base damage cost calculations only on publicly available data—

(1) obtained from the Bureau of Labor Statistics; or

(2) otherwise obtained from an agency of the Federal Government which has been collected through objective, statistically sound survey methods or which has been previously subject to a public notice and comment process in a Federal agency proceeding.

(b) EXCEPTION.—If any data necessary for establishing or modifying a threshold described in subsection (a) is not available as provided in subsection (a) (1) or (2), the Secretary may use any other source to obtain such data, but the use of such data shall be subject to public notice and the opportunity for written comment.

(c) EFFECTIVE DATE.—This section shall apply only to the establishment or modification of a monetary damage threshold occurring after the date of enactment of this Act.

SEC. 16. REPORT ON THE SAFETY OF HAZARDOUS MATERIALS TRANSPORTATION BY RAIL.

Within one year after the date of enactment of this Act, the Secretary shall report to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Energy and Commerce of the House of Representatives regarding issues presented by the transportation by rail of hazardous materials. The report shall include the following information:

(1) For the years 1989, 1990, 1991, and, to the extent available, 1992, relevant data concerning each unintentional release of hazardous materials resulting from rail transportation accidents, including the location of each such release, the probable cause or causes of each such release, and the effects of each such release.

(2) For the years 1989, 1990, 1991, and, to the extent available, 1992, a summary of relevant data concerning unintentional releases of hazardous materials resulting from rail transportation incidents.

(3) A description of current regulations governing hazardous materials rail car placement (including buffer cars), and an evaluation of their adequacy in light of experience and emerging traffic and commodity patterns.

(4) An assessment of regulations, rules, orders, or standards that address rail operations or procedures associated with carrying hazardous materials on rights-of-way having significant grades or high degrees of curvature.

(5) An assessment of the effectiveness and associated costs of requiring deployment of wayside bearing failure detectors for trains carrying hazardous materials.

(6) An assessment of rail tank car rules, regulations, orders, or standards affecting hazardous materials transportation.

(7) The status of all planned or pending regulatory activities of the Secretary (including the status of all regulations required by statute) that seek to address the safe transportation of hazardous materials by rail, and the status of rail hazardous materials enforcement activities.

(8) Such other information as the Secretary determines relevant to the safe transportation of hazardous materials by rail.

SEC. 17. REPORT ON TRAIN DISPATCHING OFFICES.

Not later than 18 months after the date of enactment of this Act, the Secretary shall transmit to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Energy and Commerce of the House of Representatives a report concerning any action that has been taken by the Secretary and the railroad industry to rectify any continuing problems associated with unsatisfactory workplace environments in certain train dispatching offices identified in the National Train Dispatcher Safety Assessment for 1987–1988, published by the Federal Railroad Administration in July 1990. The report shall include recommendations for legislative or regulatory action to ameliorate any such problems that affect safety in train operations.

SEC. 18. NORTHEAST CORRIDOR SAFETY COMMITTEE.

(a) MEETINGS.—Section 11(c) of the Rail Safety Improvement Act of 1988 (45 U.S.C. 431 note) is amended to read as follows:

"(c) The Northeast Corridor Safety Committee shall meet at least once every 2 years to consider matters involving safety on the main line of the Northeast Corridor.".

(b) REPORT.—Section 11(d) of the Rail Safety Improvement Act of 1988 (45 U.S.C. 431 note) is amended—

(1) by striking "Within one year after the date of enactment of this Act" and inserting in lieu thereof "At the beginning of the first session of the 103rd Congress, and biennially thereafter,"; and

(2) by adding at the end the following new sentence: "The report shall contain the safety recommendations of the Northeast Corridor Safety Committee and the comments of the Secretary on those recommendations.".

(c) TERMINATION DATE.—Section 11 of the Rail Safety Improvement Act of 1988 (45 U.S.C. 431 note) is amended by adding at the end the following new subsection:

"(e) The Northeast Corridor Safety Committee shall cease to exist on January 1, 1999, or on such date as the Secretary determines to be appropriate. The Secretary shall notify the Congress in writing of any such determination.".

AMENDMENT NO. 2937

(Purpose: To make certain amendments relating to the impact of bankruptcy proceedings upon airport gate leases held by bankrupt airlines)

Mr. BENTSEN. Mr. President, I move that the Senate concur in the House amendments with a further amendment, which I now send to the desk on behalf of Senator DANFORTH.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Texas [Mr. BENTSEN], for Mr. DANFORTH (for himself, Mr. BOND and Mr. SIMON), proposes an amendment numbered 2937.

Mr. BENTSEN. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

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

The amendment is as follows:

At the end of the bill, add the following new section:

SEC. 19. AIRPORT LEASES.

(a) FINDINGS.—Congress finds that—

(1) there are major airports served by an air carrier that has leased a substantial majority of the airport's gates;

(2) the commerce in the region served by such a major airport can be disrupted if the air carrier that leases most of its gates enters bankruptcy and either discontinues or materially reduces service; and

(3) it is important that such airports be empowered to continue service in the event of such a disruption.

(b) BANKRUPTCY RULES REGARDING UNEXPIRED LEASES.—Section 365(d) of title 11, United States Code, is amended by adding at the end the following new paragraphs:

"(5) Notwithstanding paragraphs (1) and (4) of this subsection, in a case under any chapter of this title, if the trustee does not assume or reject an unexpired lease of nonresidential real property under which the debtor is an affected air carrier that is the lessee of an aircraft terminal or aircraft gate before the occurrence of a termination event, then (unless the court orders the trustee to assume such unexpired leases within 5 days after the termination event), at the option of the airport operator, such lease is deemed rejected 5 days after the occurrence of a termination event and the trustee shall immediately surrender possession of the premises to the airport operator; except that the lease shall not be deemed to be rejected unless the airport operator first waives the right to damages related to the rejection. In the event that the lease is deemed to be rejected under this paragraph, the airport operator shall provide the affected air carrier adequate opportunity after the surrender of the premises to remove the fixtures and equipment installed by the affected air carrier.

"(6) For the purpose of paragraph (5) of this subsection and paragraph (f)(1) of this section, the occurrence of a termination event means, with respect to a debtor which is an affected air carrier that is the lessee of an aircraft terminal or aircraft gate—

"(A) the entry under section 301 or 302 of this title of an order for relief under chapter 7 of this title;

"(B) the conversion of a case under any chapter of this title to a case under chapter 7 of this title; or

"(C) the granting of relief from the stay provided under section 362(a) of this title with respect to aircraft, aircraft engines, propellers, appliances, or spare parts, as defined in section 101 of the Federal Aviation Act of 1958 (49 App. U.S.C. 1301), except for property of the debtor found by the court not to be necessary to an effective reorganization.

"(7) Any order entered by the court pursuant to paragraph (4) extending the period within which the trustee of an affected air carrier must assume or reject an unexpired lease of nonresidential real property shall be without prejudice to—

"(A) the right of the trustee to seek further extensions within such additional time period granted by the court pursuant to paragraph (4); and

"(B) the right of any lessor or any other party in interest to request, at any time, a shortening or termination of the period within which the trustee must assume or reject an unexpired lease of nonresidential real property.

"(8) The burden of proof for establishing cause for an extension by an affected air carrier under paragraph (4) or the maintenance of a previously granted extension under paragraph (7) (A) and (B) shall at all times remain with the trustee.

"(9) for purposes of determining cause under paragraph (7) with respect to an unexpired lease of nonresidential real property between the debtor that is an affected air carrier and an airport operator under which such debtor is the lessee of an airport terminal or an airport gate, the court shall consider, among other relevant factors, whether substantial harm will result to the airport operator or airline passengers as a result of the extension or the maintenance of a previously granted extension. In making the determination of substantial harm, the court shall consider, among other relevant factors, the level of actual use of the terminals or gates which are the subject of the lease, the public interest in actual use of such terminals or gates, the existence of competing demands for the use of such terminals or gates the effect of the court's extension or termination of the period of time to assume or reject the lease on such debtor's ability to successfully reorganize under chapter 11 of this title, and whether the trustee of the affected air carrier is capable of continuing to comply with its obligations under section 365(d)(3) of this title.".

(c) PARTIAL ASSIGNMENTS OR ASSUMPTIONS OF LEASES.—Section 365(c) of title 11, United States Code, is amended—

(1) by striking "or" at the end of paragraph (2);

(2) by striking the period at the end of paragraph (3) and inserting in lieu thereof "; or"; and

(3) by adding at the end the following new paragraph:

"(4) such lease is of nonresidential real property under which the debtor is the lessee of an aircraft terminal or aircraft gate at an airport at which the debtor is the lessee under one or more additional nonresidential leases of an aircraft terminal or aircraft gate and the trustee, in connection with such assumption or assignment, does not assume all such leases or does not assume and assign all of such leases to the same person, except that the trustee may assume or assign less than all of such leases with the airport operator's written consent.".

(d) PROHIBITION OF LEASE ASSIGNMENTS AFTER TERMINATION EVENT.—Section 365(f)(1) of title 11, United States Code, is amended by striking the period at the end and inserting in lieu thereof the following: "; except that the trustee may not assign an unexpired lease of nonresidential real property under which the debtor is an affected air carrier that is the lessee of an aircraft terminal or aircraft gate if there has occurred a termination event.".

(e) AFFECTED AIR CARRIER DEFINED.—Section 365 of title 11, United States Code, is amended by adding at the end the following new subsection:

"(p) In this section, 'affected air carrier' means an air carrier, as defined in section 101(3) of the Federal Aviation Act of 1958, that holds 65 percent or more in number of the aircraft gates at an airport—

"(1) which is a Large Air Traffic Hub as defined by the Federal Aviation Administration in Report FAA-AP 92-1, February 1992; and

"(2) all of whose remaining aircraft gates are leased or under contract on the date of enactment of this subsection.".

(f) APPLICABILITY.—The amendments made by this section shall be in effect for the 12-month period that begins on the date of en-

actment of this Act and shall apply in all proceedings involving an affected air carrier (as defined in section 365(p) of title 11, United States Code, as amended by this section) that are pending during such 12-month period. Not later than 9 months after the date of enactment, the Administrator of the Federal Aviation Administration shall report to the Committee on Commerce, Science, and Transportation and Committee on the Judiciary of the Senate and the Committee on the Judiciary and Committee on Public Works and Transportation of the House of Representatives on whether this section shall apply to proceedings that are commenced after such 12-month period.

The PRESIDING OFFICER. The question is on agreeing to the motion.

The motion was agreed to.

Mr. BENTSEN. Mr. President, I move to reconsider the vote by which the motion was agreed to.

Mr. DANFORTH. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. HOLLINGS. Mr. President, as chairman of the Committee on Commerce, Science, and Transportation, I rise in strong support of H.R. 2607, the Rail Safety Enforcement and Review Act. This legislation will reauthorize the rail safety programs of the Federal Railroad Administration [FRA], within the Department of Transportation [DOT] for fiscal years 1992, 1993, and 1994, and I commend Senator EXON, chairman of the Surface Transportation Subcommittee, for his leadership in forging the bipartisan consensus legislation to improve rail safety before the Senate today.

Initiatives in this legislation combine important provisions of the Senate version of this bill, S. 1571, and H.R. 2607 as originally passed by the House and represent an agreement between the House and Senate, which the House approved on July 21, 1992. First, the legislation explicitly clarifies the responsibility of the Federal Railroad Administration to issue certain rules and regulations while setting forth specific legislative directives for agency action in other areas of concern. Under provisions of the Rail Safety Improvement Act of 1988 [RSIA], the Secretary of Transportation was directed to issue rules, regulations, orders, or standards in various areas of specific concern as may be necessary. The interpretation of this phrase by the Secretary that discretion was conferred as to whether issuance of any such rules was necessary led to the inclusion in this legislation of language to prevent similar problems in the future. The legislation deletes the phrase "as may be necessary" from specific RSIA rulemakings and requires the Secretary to commence reviews, safety inquiries, and rulemakings, and thereafter to issue regulations based on such actions. In limited circumstances, the legislation specifically provides that if the Secretary determines not to issue such regulations, the Secretary shall report to Congress on the reasons for that determination.

In this regard, the Secretary is directed to commence reviews, safety inquiries, and/or rulemaking procedures to evaluate the adequacy of existing regulations in the areas of power brake rules, radio communication requirements, locomotive crashworthiness, train dispatching facilities and practices, and track safety standards.

I am very pleased that the legislation before the Senate today includes a provision similar to one which I sought, and which was approved by the Senate, directing a review of track safety standards. I proposed this provision in the aftermath of an Amtrak accident in Lugoff, SC, last year, which claimed seven lives. The bill retains a requirement that DOT initiate a review of its track safety standards. Additionally, the General Accounting Office [GAO] is to conduct a study of the Secretary's enforcement of track safety standards, with particular attention to recent relevant railroad accident experience and data. With the benefit of GAO's evaluation and recommendations in hand, the Secretary is to issue, within 2 years of enactment of this legislation, rules, regulations, orders, or standards to revise DOT's track safety standards.

In the area of enforcement, the legislation increases the minimum civil penalties for all safety violations from $250 to $500, reflecting the fact that the original penalty amount had not been adjusted since its establishment in 1970. The legislation directs FRA to conduct a pilot program experimenting with enforcement activities at the regional office level. To the credit of FRA's Administrator, Gil Carmichael, this pilot already has been initiated. Other enforcement-related provisions seek to address the need for timely and effective rail safety enforcement activities as directed by FRA.

Finally, the legislation provides authorization levels for fiscal years 1992, 1993, and 1994, designed to enable DOT to carry out the new responsibilities mandated under this legislation as well as its current safety and research and development agenda. It also reauthorizes the Local Rail Freight Assistance Program which has helped a number of small- and medium-sized railroads to keep light-density freight lines in service as part of the Nation's rail network.

One provision in the Senate-passed version of the rail safety bill sought to address the concerns expressed to the Committee regarding possible regulatory gaps and confusion over jurisdiction between FRA and the Occupational Safety and Health Administration as it relates to the occupational safety and health of rail employees. Although the provision in the Senate bill ultimately was not included in the final agreement, further examination of this important issue is imperative. In this regard, I understand that the chairman of the House Subcommittee on Transportation and Hazardous Materials has scheduled a hearing on this issue for August 5, 1992.

Mr. President, I urge my colleagues to support final passage of H.R. 2607 as amended.

Mr. EXON. Mr. President, I rise in support of H.R. 2607, the Rail Safety Enforcement and Review Act. This legislation is based, in large part, on S. 1571, the Rail Safety Improvement Initiatives Act, which Senator HOLLINGS and I introduced last year. The amended bill results from a series of negotiations between the House and Senate and represents the conference equivalent of H.R. 2607 and S. 1571. This important legislation reauthorizes the rail safety enforcement programs of the Federal Railroad Administration, [FRA] within the Department of Transportation [DOT] for fiscal years 1992, 1993, and 1994. Additionally, H.R. 2607 further refocuses and strengthens FRA's safety enforcement mission on behalf of the Federal Government over the railroad industry, a transportation mode of vital and continuing importance to the Nation.

As chairman of the Surface Transportation Subcommittee, I commend the chairman of the full Committee on Commerce, Science, and Transportation, Senator HOLLINGS, as well as the ranking member of the committee, Senator DANFORTH, and the ranking member of the subcommittee, Senator KASTEN, for their efforts in crafting the legislation now before us. I also thank our colleagues and counterparts from the House Energy and Commerce Committee and the Subcommittee on Transportation and Hazardous Materials for their leadership in working with us to put forward the compromise measure we consider today. This legislation represents a bipartisan consensus and incorporates the most positive elements of recent rail safety legislation passed by the Senate and by the other body.

As so recently demonstrated during the very costly 2-day lockout and shut down of the Nation's railroads, our economy depends upon railroad shipment and freight delivery, and many intercity travelers count on the National Railroad Passenger Corporation [Amtrak] for their transportation needs. We expect our railroads to be reliable, and it is essential that they be safe. H.R. 2607 advances that safety objective and ensures that FRA will carry out its enforcement mission vigorously.

To enable FRA to meet these responsibilities, the Rail Safety Enforcement and Review Act initiates a new, 3-year authorization for FRA safety programs and sharpens the agency's existing safety oversight role. The funding levels included in this measure will broaden FRA's current safety programs, sup-

port additional initiatives, and provide for needed research and development efforts.

In addition to incorporating needed authorizations, the legislation includes a number of important and necessary provisions. The bill before us includes a 3-year authorization for the Local Rail Freight Assistance Program [LRFAP], a valuable program which has helped small- and medium-sized railroads in the Midwest and in other parts of the Nation keep LRFAP marginal lines, often in rural areas, in service as part of our national rail system. I am pleased to point out that there is a bipartisan consensus on the part of my colleagues in both the House and the Senate to continue this worthwhile program.

H.R. 2607 also reflects a strong congressional view that advances in engineering and technology must be considered and incorporated into railroad equipment and operating practices. For example, the legislation requires the Secretary to review and revise existing regulations pertaining to railroad power brakes and dynamic braking, and sets forth specific criteria to be applied consistent with the further requirement that the Secretary shall issue rules requiring two-way end-of-train devices capable of initiating emergency braking from the end of the train. While the plain meaning of this section of the legislation is clear, I would emphasize that exclusion from the two-way end-of-train device requirement of one of the five categories of trains listed is not mandatory, because with respect to trains "which do not exceed 30 miles per hour and do not operate on heavy grades," such categories of trains may be subject to the two-way end-of-train device regulations if specifically designated by the Secretary. Further, although the Secretary may, upon appropriate showing of safety and the public interest, exclude any category of trains or operations beyond the specific categories designated, this legislation does not direct the Secretary to consider any additional categories of trains or rail operations for such exclusion nor does it address in any respect the likelihood that the Secretary will exercise such discretionary authority.

Several other provisions of the legislation advance FRA's safety mission through focus on evolving technology and engineering. First, the Secretary is required to complete a rulemaking to consider prescribing regulations to improve the safety and working conditions of locomotive cabs, including an assessment of the costs and benefits of equipping locomotives with specifically designated equipment. Second, a provision addressing railroad radio communications incorporates elements from both the House and Senate bills, and specifically requires FRA to assess the status of advanced train control systems that are being developed, and the implications of such systems for effective railroad communications. Third, H.R. 2607 adopts a provision based on an amendment offered to the Senate bill by the chairman of the Commerce Committee, Senator HOLLINGS, requiring FRA to revise its track safety regulations after considering data presented by the General Accounting Office on the effectiveness of the Secretary's enforcement of track safety standards.

Another section of the legislation requiring specific FRA action includes a directive that, as part of ongoing safety assessments of railroads, FRA evaluate the effectiveness of total quality management techniques, if any, on the safety practices of the railroad being assessed. H.R. 2607 also mandates meetings of the Northeast Corridor Safety Committee and requires FRA to report on any continuing problems associated with unsatisfactory workplace environments of certain train dispatching offices together with recommendations for legislative action to ameliorate any such problems that affect safety in train operations.

With respect to FRA's enforcement activities, H.R. 2607 increases, for the first time since 1970, the minimum penalty for all safety violations to $500, from its present level of $250. This legislation also provides needed clarification to FRA to guide the compromise, as appropriate, of initial recommended penalty assessments. Further provisions intended to step up FRA's enforcement capabilities include additional protection for FRA inspectors, the establishment of a regional enforcement pilot project using staff attorneys in FRA regional offices, and a requirement that railroads file reports on remedial actions implemented after safety violations have been assessed. Taken together, these provisions reflect important congressional concerns and consequent directives regarding the administration of FRA's important enforcement role.

Other sections of H.R. 2607 clarify further the scope of FRA's regulatory function and responsibilities, and the applicability of certain rules and regulations. In addition to prescribing that review of any final FRA agency action be brought in the appropriate court of appeals, the legislation sets forth certain criteria to be considered in establishing or modifying a monetary threshold for the reporting of railroad accidents. With respect to the issuance of regulations generally, I have been concerned, along with my colleagues from the Energy and Commerce Committee in the House, that FRA has not implemented some of its responsibilities as required under the last rail safety measure enacted, the Rail Safety Improvements Act of 1988 [RSIA]. That legislation directed the Secretary of Transportation to issue rules, regulations, orders, or standards in various areas of specific concern as may be necessary. The subsequent interpretation of this phrase by the Secretary that discretion was conferred as to whether issuance of any such rules was necessary, led to inclusion of language in the measure before us today in order to prevent similar problems in the future. Further, H.R. 2607 instructs FRA to complete unresolved rulemaking activities mandated by RSIA. I am confident that the approach incorporated in this legislation underscores sufficiently congressional concerns that FRA issue rules as directed, both in the past and in the future, and by putting the matter to rest, ensures that such issues will not resurface.

Regarding FRA's overall regulatory jurisdiction, H.R. 2607 requires that rules, regulations, orders, and standards issued by the Secretary apply to a number of different persons, including "any independent contractor providing goods or services to a railroad" and "any employee of such * * * independent contractor." I wish to clarify that this provision simply makes explicit the Secretary's current authority and draws no distinction, contrary to the assertion of the ranking Republican of the Subcommittee on Transportation and Hazardous Materials in the House, between types of contractors, whether the contracting operation is continuous or ongoing, or any similar analysis. The plain language of this section clearly brings within FRA's jurisdiction any independent contractor or employee of such contractor providing goods or services to a railroad.

Another agency jurisdictional issue of great concern affects Federal oversight of the safety and health of rail workers. The Occupational Safety and Health Act of 1970 [OSHA] gave the Secretary of Labor broad general authority to regulate working conditions that affect the occupational safety and health of employees. When OSHA was passed, Congress also recognized the existence of similar authority in other Federal agencies. Specifically, section 4(b)(1) of OSHA provides that OSHA shall not apply to working conditions in cases where another Federal agency exercises statutory authority to prescribe or enforce standards or regulations affecting occupational safety or health.

As its primary mission, the FRA ensures safe railroad operations for railroad employees, customers, and the public. Given this mission, FRA should be the agency chiefly responsible for ensuring the safe working conditions of railroad employees in the context of railroad operations. In 1978, FRA issued a Policy Statement on Railroad Occupational Safety and Health Standards. In this statement, FRA listed: First, those categories of working conditions and associated hazards that the agency

then was regulating; second, those that it was not regulating, but which required close coordination with the Department of Labor; and third, those over which it had no plans to exercise jurisdiction. The statement articulated the dimensions of FRA's safety program and clarified the respective roles of FRA and the Department of Labor in assuring the occupational safety and health of railroad employees. In view of concerns expressed regarding possible regulatory gaps and confusion over jurisdiction and the fact that considerable time has passed since FRA issued the statement in 1978, FRA should review its prior analysis to determine whether any revisions are necessary.

Although the provision specifically addressing this issue in the Senate-passed rail safety bill ultimately was not included in the final legislation, further examination of this important issue is appropriate. Furthermore, as noted in a letter dated June 10, 1992, from Chairman Swift of the House Subcommittee on Transportation and Hazardous Materials to the chairman of the Railway Labor Executives' Association, that subcommittee has committed to hold a hearing to clarify further the jurisdictional relationship between FRA and the Occupational Safety and Health Administration as well as to address the issue of possible regulatory gaps between the safety jurisdiction of these two Federal agencies. This is a crucial public policy issue of signal importance to railway employees and one which appropriately merits further congressional review.

Finally, H.R. 2607 addresses the serious matter of transportation by rail of hazardous materials. The legislation requires FRA to undertake a comprehensive study of this subject, to be completed within 1 year of the date of enactment, of specific issues including the location and effects of rail accidents and hazardous materials releases in recent years, an evaluation of the effectiveness of current FRA hazardous materials transportation regulations, and an assessment of the status of all regulatory and enforcement activities undertaken by the Secretary related to this area. In light of the severity of recent hazardous materials incidents in the railroad industry, including the release of a large quantity of benzene into the environment following a derailment on the Duluth, MN/Superior, WI, border, I would like explicitly to clarify that the report on hazardous materials safety and enforcement required pursuant to this legislation should in no way impede or delay pending FRA rulemaking activities. I am aware that FRA has commenced rulemakings addressing specifications for tank cars and detection and repair of tank car defects, and I would expect these and other administrative proceedings to be prosecuted with diligence pending the completion of the required report to Congress. The junior Senator from Minnesota, Senator WELLSTONE, has been most vigorous in his efforts to bring the tragedy of the Duluth, MN, incident to the attention of the Senate and the Federal Government.

In conclusion, Mr. President, H.R. 2607 represents a major contribution to and advancement of the cause of safety in the railroad industry. The Rail Safety Enforcement and Review Act enjoys bipartisan support, and I urge my distinguished colleagues to join me in working for final passage of this important legislation.

Mr. President, I also would like to take this opportunity to recognize the excellent work of several staff members who worked very hard on this much needed legislation. Don Norden who, until recently, served on my personal staff and is now enjoying life in the private sector, Sheryl Washington and Don Itzkoff, both of the Senate Surface Transportation Subcommittee, put countless hours of work into this legislation. Their good efforts will help make America's railroads safe and efficient.

Thank you, Mr. President.

Mr. KASTEN. Mr. President, section 202 requires two-way, end-of-train devices to enable the initiation of emergency braking from the end of a train. This provision directs the Secretary to exclude from this requirement five categories of trains, including "trains that do not exceed 30 miles per hour and do not operate on heavy grades, except for any categories of such trains specifically designated by the Secretary."

Further, the Secretary may exclude from the two-way, end-of-train device requirement any category of trains or rail operations if the Secretary determines that such an exclusion is in the public interest and is consistent with railroad safety.

A specific situation has been brought to my attention by a constituent from my State. In the case of a railroad which sometimes operates trains in excess of 30 miles per hour which do not operate on heavy grades, could that railroad apply for an exclusion from the two-way, end-of-train device requirement, upon showing that the public interest is served and that the exclusion would be consistent with railroad safety?

Mr. EXON. I thank the Senator from Wisconsin for seeking clarification of this important point. As I indicated in my statement, with respect to categories of trains which do not exceed 30 miles per hour and do not operate on heavy grades, I would note first, that such categories of trains may be subject to the regulations if specifically designated by the Secretary, and that therefore, the exclusion is not completely mandatory because the Secretary may designate categories of such trains that will be subject to, not excluded from, the requirements of the regulations.

Second, the Senator is correct that the Secretary may further exclude any category of trains or operations in addition to the five listed categories, provided that the Secretary finds such an exclusion in the public interest and consistent with railroad safety. The language of section 202 clearly requires the Secretary to apply both components of this statutory test—in the public interest and consistent with railroad safety—to any specific instance or case which may or may not be considered. I would further note, again as I indicated in my statement, that the legislation does not direct the Secretary to consider any particular category of trains or rail operations in carrying out this provision nor does it address the degree of likelihood that the provision will be exercised by the Secretary.

Mr. KASTEN. I thank the Senator from Nebraska.

Mr. WELLSTONE. Mr. President, I rise to pose a question to my distinguished colleague from Nebraska, Senator EXON. As the Senator knows, the recent spill of a large quantity of benzene and other chemicals required the evacuation of Duluth, MN, and Superior, WI. This incident has heightened my interest in rail safety. In particular, I am concerned about the failure of the FRA to complete rulemaking initiatives concerning tank car defects and specifications for older tank cars. Is my understanding correct that the Senator is similarly concerned with the FRA's lack of progress in implementing these rules in a timely fashion?

Mr. EXON. Yes; my colleague is correct. As I indicated in my remarks, I am extremely concerned about the implications of the release of hazardous materials in Duluth, MN and Superior, WI, to which the Senator refers, as well as other similar events which have occurred in other locations of the country. I understand that the FRA has initiated rulemakings regarding inspection of tank car defects and specifications of older tank cars, but that no final rules have been issued in these proceedings. This matter is of great concern to me and I will personally contact the FRA Administrator regarding the status of these rulemakings and ask that an expeditious schedule for their completion be established.

Mr. WELLSTONE. Am I also correct in my understanding that my colleague from Nebraska will convey to the FRA, as he indicated in his statement, that the undertaking of the assessment of FRA's hazardous materials regulations required by the bill should not in any way impede the progress and ultimate issuance of rules pursuant to the FRA's ongoing rulemakings for tank car specifications and the rulemaking for the

detection and repair of cracks, pits, corrosion, lining flaws, thermal protection flaws, and other defects of tank cars?

Mr. EXON. Yes; my colleague is correct. I wish to assure my colleague from Minnesota that I will monitor the FRA's progress, and that I will convey to FRA both my colleague's and my concern, and the importance of swift action on these critical and long-delayed rulemakings. I will also make clear, as I indicated in my statement, that FRA's assessment of its hazardous materials regulations required by this bill is not to delay the ongoing rulemakings.

Mr. WELLSTONE. I thank my distinguished colleague for his efforts to ensure that rules are soon issued in these vital rulemaking proceedings. As the Senator from Nebraska knows, I was prepared to offer an amendment requiring the FRA to take final action on these rules by a date certain. However, knowing of my colleague from Nebraska's strong commitment to rail safety, and his assurance that he will communicate to FRA the need for swift action on these rules, I do not believe it is necessary for me to offer such an amendment at this time. My full statement more completely conveys my sense of concern for rail safety and the actions of the FRA.

Mr. KASTEN. Mr. President, on March 18, the Senate passed S. 1571, the Rail Safety Improvement Initiatives Act of 1992, to reauthorize Federal Railroad Administration's [FRA] programs and address several concerns that have emerged since the Rail Safety Improvement Act of 1988 [RSIA] was enacted. Since then, differences between S. 1571 and H.R. 2607, the rail safety reauthorization bill reported by the House Committee on Energy and Commerce, have been worked out with the excellent cooperation of the railroads, rail labor, and the administration. On July 21, the House approved the compromise legislation that we are considering today.

Specifically, the Rail Safety Enforcement and Review Act reauthorizes Federal rail safety programs at levels of $54,352,000, $68,283,000, and $71,690,000 for fiscal years 1992, 1993, and 1994, respectively. At the same time, it provides funding authority for the Local Rail Freight Assistance Program at levels of $16, $25, and $30 million. Also, it contains the following safety initiatives:

First, a review and revision of Federal track safety standards, taking into consideration the findings of a mandated Government Accounting Office study of the adequacy of FRA's enforcement of track safety standards.

Second, a review and revision of Federal power brake safety rules, including issuance of new rules requiring installation of two-way end-of-train braking devices on certain trains by December 31, 1997.

Third, in preparation for next year's reauthorization of Federal hazardous materials transportation programs, a report to Congress on a number of issues affecting the safe rail transportation of such materials.

In view of last month's major hazardous materials spill near Superior, WI, I will be particularly interested in the report's findings on the adequacy of FRA's current rail tank car rules.

Fourth, a regional enforcement pilot project to consider whether locating legal counsel in FRA regional offices would expedite enforcement or provide other benefits to the safety program.

Fifth, increased Federal law protection for railroad safety inspectors.

Sixth, a rulemaking to assess the adequacy of current locomotive cab safety and environmental standards.

Seventh, a safety inquiry on FRA's radio standards and procedures, and on the status of advanced train control systems and whether Federal standards are necessary to ensure that they provide for positive train separation and are compatible nationwide.

Eighth, continuation of the Northeast Corridor Safety Committee created by RSIA.

Ninth, a progress report on efforts to improve working conditions in train dispatching offices.

Tenth, establishment of new procedures to set monetary damage thresholds for the reporting of railroad accidents.

Eleventh, an assessment of the use and effectiveness of total quality management techniques on railroad safety practices.

Twelfth, a requirement that railroads report remedial actions taken after notification by FRA that a civil penalty will be recommended for a failure to comply with railroad safety laws.

Thirteenth, clarification of FRA's responsibility to issue certain rules and regulations under RSIA. First, the legislation removes any doubt about the Secretary's obligation to issue a number of specific RSIA rulemakings by deleting the phrase "as may be necessary" in each instance. Second, the legislation avoids use of the phrase in addressing new areas of concern but, instead, precisely directs the Secretary as to the action that is intended by each provision.

Fourteenth, clear confirmation of FRA's existing safety authority over nonrailroad entities, such as independent contractors and their employees.

I would note that a Senate provision to address concerns regarding possible regulatory gaps between FRA and the Occupational Safety and Health Administration, OSHA, is not included in this compromise legislation. In fact, this bill is not in any way intended to alter the existing boundaries between the jurisdiction of FRA and OSHA. However, the House Subcommittee on Transportation and Hazardous Materials has agreed to hold hearings to consider issues that have been raised concerning the safety responsibilities of these two agencies.

Under the stewardship of Administrator Gil Carmichael, FRA has made great strides in improving the performance of its regulatory and enforcement duties. One notable area of improvement has been the civil penalty process. Using added resources and computerized document preparation, FRA has eliminated an enormous backlog of unreviewed cases and is steadily improving its overall timelines, which should have a positive effect on the deterrence of safety violations. FRA's significant accomplishments in the safety area in recent years bode well for the smooth implementation of this bill. Mr. President, I urge my colleagues to support the Rail Safety Enforcement and Review Act of 1992.

Mr. BURNS. Mr. President, I rise today in support of final passage of this important legislation.

In Montana, we move a lot of our goods by rail and a lot of goods, and passengers, pass through our State by rail.

We have a lot of wide open space, and can also have some very cold weather. In many instances, the weather is a complicating factor when it comes to rail safety.

We have had two major accidents in the past 4 years. One which occurred in February 1989 near Helena, MT, during a time of subzero temperatures, resulted in a hazardous materials spill. The accident resulted in the evacuation of 3,500 residents during these severe weather conditions. I can assure you that it was no small hardship on a number of people in my State.

Recommendations were made by the National Transportation Safety Board to all of those involved in its report released to me on March 7, 1990. Provisions in this legislation generally require safety devices be on trains without cabooses.

As a result of that accident, Montana became the first State to enact a law requiring the use of two-way end of train devices whenever a train operates without a caboose in mountain grade territory.

These two-way end-of-train devices make it possible for the engineer of a cabooseless train to apply emergency braking action at the end of a train.

These provisions meet the requirements of the railroad engineers who are interested in making sure the trains they operate run in the safest manner possible. These two-way end-of-train devices make it possible for the engineer of a cabooseless train to apply emergency braking action at the end of a train.

This is an important safety issue, Mr. President, and I am glad to see the Senate addressing it at this time. The working men and women of the rail-

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road industry will know that we are on their side. And people in places like Helena, MT, can be assured that Congress is acting to prevent another runaway train accident from causing them to be evacuated from their home during the subzero Montana winter.

Mr. President, H.R. 2607 is important to our country and is a good compromise for all individuals involved.

Thank you, Mr. President, I yield the floor.

Mr. SEYMOUR. Mr. President, I am extremely pleased the Senate is taking action today on H.R. 2607, legislation to reauthorize important rail safety programs.

I am especially pleased with the direction this legislation takes regarding the rail transport of hazardous materials. Unfortunately, there have been several rail accidents over the past year. In California, in particular, back-to-back rail accidents in July 1991 increased awareness of the issue and renewed the cry for greater oversight and enforcement in the area of the transportation of hazardous materials by rail.

In fact, a little more than a year ago, on July 14, 1991, a train derailment near Dunsmuir, CA, dumped 19,000 gallons of metam sodium, a powerful pesticide, into the upper Sacramento River. And 1 week later, on Highway 101 near Seacliff, a train derailment spilled a powerful corrosive, hydrazine, onto one of the busiest highways in California, causing the evacuation of 300 residents and trapping commuters in their cars for hours.

For these reasons, I offered an amendment during Senate consideration of the rail safety bill, requiring the Secretary of Transportation to report back to Congress on those rail routes in California that are inherently less safe than others for the rail transportation of hazardous materials. From the start, I sought a report that was national in scope because these are issues of critical importance to communities nationwide.

Since that time, however, statistics have borne out my original thought on this issue. There have been 15 rail accidents in 12 separate States over the past year, in addition to the Dunsmuir and Seacliff incidents, involving the release of hazardous materials. Mr. President, I ask unanimous consent that a list prepared by Federal Railroad Administration of accident investigations involving the release of hazardous materials be printed in the RECORD.

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

FRA ACCIDENT INVESTIGATIONS INVOLVING RELEASE OF HAZARDOUS MATERIALS (JULY 15, 1991 THROUGH JULY 23, 1992)

Date and location

1. 07-14-1991: Dunsmuir, CA.
2. 07-17-1991: Butler, PA.
3. 07-28-1991: Seacliff, CA.
4. 07-30-1991: Dobbins, TX.
5. 07-31-1991: Evansville, IN.
6. 08-28-1991: Brookfield, MO.
7. 09-17-1991: Knox, IN.
8. 12-20-1991: Cottondale, FL.
9. 12-23-1991: Lakewood, WA.
10. 12-30-1991: Bates, MO.
11. 01-18-1992: Dragon, MS.
12. 03-01-1992: Evansville, IN.
13. 03-14-1992: Wenlock, VT.
14. 04-13-1992: Ferguson, MO.
15. 05-06-1992: Avondale, LA.
16. 06-01-1992: Rosenberg, TX.
17. 06-30-1992: Boylston, WI.

Mr. SEYMOUR. Mr. President, given these numbers, it is clear we must move forward to identify and correct inherent safety flaws on a nationwide basis. That is what this compromise package provides—a broader study that will have implications for hazardous materials transport policy nationwide.

Mr. President, section 16 of this compromise rail safety bill will accomplish this goal. It builds on my original amendment, and requires the Secretary of Transportation to conduct a nationwide report on the safety of hazardous materials transportation by rail. This information is critical to our understanding of these issues, and it will serve as a backdrop for the 103d Congress, when hazardous materials transportation legislation must be reauthorized.

Currently, in the event of an accident, regulations require investigators to evaluate such factors as driver conduct and mechanical failure. But there are so many other factors that must be considered. For instance, in the wake of the Dunsmuir accident, there was substantial discussion regarding the steep grades and significant curvature of the track. Moreover, there was concern with regard to tank car strength. In the Seacliff derailment, the question of wayside bearing failure detectors was raised.

Investigators are still examining the Dunsmuir spill to determine the exact cause of the accident. We need to know if the rail line itself, the grade, the turn or other factors contributed to the wreck. In such a case, no matter how carefully the driver handles the train, or how well-maintained the engine or the track, there could exist, literally, an inherent danger to the route. This is unacceptable, particularly if hazardous materials are being transported.

The results of this study will have applications nationwide, Mr. President. Using the Department of Transportation's guidance, we will be able to expand further on the rail safety provisions contained within this important bill.

These proposals and the underlying compromise legislation will advance us in the direction of greater rail safety. For this reason, I urge passage of this bill.

CONSTITUTIONALITY OF AIRPORT GATES AMENDMENT TO THE RAIL SAFETY ENFORCEMENT AND REVIEW ACT

Mr. HEFLIN. I would like to ask the senior Senator from Missouri a question about a matter before the Senate. The Rail Safety Enforcement and Review Act contains a provision related to bankrupt airlines and the disposition of their gates. What is the purpose of this provision?

Mr. DANFORTH. This provision is intended to deal with the situation in which a bankrupt airline that has leased the substantial majority of the gates at a major airport discontinues service. This can be disruptive to the commerce in the region served by the airport, especially if the airport has already leased all of its available gates. We have learned from a number of bankruptcies, such as the recent Braniff Airlines' case, that, when this occurs, many gates can sit idle for months during the court's disposition of the airline's assets and obligations, and the public airport does not have the authority necessary for the operation of the airport. My amendment would allow the airport to make the appropriate decisions about its unused gates in such situations.

Mr. HEFLIN. Given the Senator's interest in the airline industry and my role as chairman of the subcommittee that has jurisdiction over bankruptcy matters here in the Senate, is it the Senator's understanding that this amendment attempts to strike a balance between the well-being of the community that may be adversely affected by such a bankruptcy and the rights of the creditors who are also affected?

Mr. DANFORTH. That is my understanding.

Mr. HEFLIN. Does this amendment comport with the requirements of article 1, section 8 of the U.S. Constitution that empowers Congress to establish "uniform laws on the subject of bankruptcies throughout the United States"?

Mr. DANFORTH. The Supreme Court has stated in the case of *Railway Labor Executives Association* v. *Gibbons*, 456 U.S. 457 (1982), "The uniformity requirement is not a straitjacket that forbids Congress to distinguish among classes of debtors. * * *" The amendment does not name a particular airport or airline. Rather, it could apply to any of the top 30 airports in the United States. Moreover, it would apply to any situation where a bankrupt carrier had a dominant position at the airport (65 percent of the gates) and had no unleased gates. Thus, the legislation is designed to deal with situations in which an airport is likely to suffer severe disruption from the bankrupt airline's shutdown and is unable to attract another carrier with additional gates. This legislation would apply to any circumstance meeting these requirements on the date of enactment and for the following 12 months. The Administrator of the Federal Aviation Administration will report to Congress on whether this provi-

sion of the bankruptcy laws should be extended to situations arising after that date.

Mr. HEFLIN. Thus, the Senator's amendment is not written so that, in the words of the Supreme Court in the Gibbons case, "[I]t only applies to one debtor and can be enforced only by the one bankruptcy court having jurisdiction over the debtor."

Mr. DANFORTH. That is correct.

Mr. HEFLIN. In the event that this bill and amendment is enacted before S. 1985 is enacted, it is the understanding of all parties involved that section 210 of S. 1985 will be amended to apply only prospectively from the date of enactment, rather than prospectively from January 1, 1992.

Mr. DANFORTH. That is my understanding. In closing, I want to make it clear that even air carriers holding less than 65 percent of the gates at an airport can cause serious problems at those airports if they become bankrupt. The 65 percent figure is not an absolute barometer of the public interest. Therefore, I want to reaffirm the fact that passage of this amendment in no way undercuts the continued need for section 210 of S. 1985, which was passed by the Senate earlier this year.

Mr. HEFLIN. I thank the Senator for the explanation.

Mr. BENTSEN. 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. BIDEN. 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. BIDEN. Mr. President, I ask unanimous consent that the Senator from Delaware be able to proceed for 5 minutes as in morning business.

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

DO NOT GO, SECRETARY BAKER

Mr. BIDEN. Mr. President, it is a cliche of commencement speeches to end with a proven bit of advice that can be reduced to two words. Today I have a two-word message for Secretary of State James Baker: "Don't go."

America stands at a critical juncture in world affairs, Mr. President; a new world is emerging. But the old order remains in place in many places and the outcome is unclear. In the Middle East, in southern Europe, in Eurasia, the expanse of the changes that are taking place in the Soviet Union, transforming changes that are taking place every day, the outcome of which is still uncertain—some good, some bad, some hopeful, and some very destructive. It is at this key moment that many of my colleagues on the other side of the aisle, including perhaps the President himself, want our Secretary of State to leave his post to take the reins of the White House reelection effort.

Mr. President, I think this would be a tragic mistake for President Bush, for Secretary Baker, and for the country.

It is bad enough that U.S. foreign policy, in my view, already lacks a vision. It would be worse still, in my view, if we were to lose the skill, management, and leadership Secretary Baker provides.

Mr. President, as a matter of principle, in my view, this move is unwise. Around the world, the U.S. Secretary of State is seen as the personal embodiment of U.S. foreign policy. To have our Secretary resign to run a political campaign would place a taint on the job unprecedented in recent times and, in my view, send a terrible signal to the world.

At the last juncture in our history, at the end of World War II, where as many significant changes were taking place, who would have thought of Secretary of State Marshall resigning to take over a campaign, a political campaign, when a new world was emerging, the outlines of which were still incredibly unclear and foggy, as they are today.

Frankly, given what is at stake in the world now, the lives at stake, the nations at stake, the U.S. interests at stake, even if George Bush believed that reclaiming James Baker from the State Department was vital to his campaign, I believe that most objective people in this country would say it is not the right thing to do, that the President would be doing the wrong thing. The right thing is to keep his foreign policy team in place.

Mr. President, I predict that history will judge much more kindly a President who places the objects of his foreign policy ahead of his political campaign needs. As a matter of timing, this is a tragic move. The Middle East peace talks are at a critical moment. The war and repression in Bosnia threaten to engulf larger sections of Europe in a second military conflict born in Sarajevo. The great experiment in convincing the world's largest Communist nation to move to a market economy is at a critical point. The leader of Russia, we are told, by the Secretary of State and by the President, is in a very tenuous position at the moment, and much of our interest rests, in our view, in the maintenance of his position. The vital task of dealing with radical change in the Soviet Union stands at a crossroads. For the next 4 to 6 months, we, the United States, we the free world, are going to be in a make or break mode.

So I say, Mr. President, I know that I may be in the minority of those in public life today, but I say to you that the outcome of the questions that relate to your foreign policy are the most important matters facing this country. I am told time and again that foreign policy is not a critical matter, but the question that makes it a critical matter is that we are at an urgent moment and timing is critical for so many decisions in the world.

Bluntly put, the quality of our children's lives will be shaped more by whether there is peace or war in the Middle East, more by whether or not there is a civilized coexistence or a pan-European conflict in Yugoslavia, more by whether or not there is democracy or fascism in the former Soviet Union than by any economic or health plan that may or may not be drawn up in the next 3 months.

We have time—we have time—over the next 6 months to determine what the health plan and the economy will be. In 6 months' time, the Middle East could be engulfed in war. In 6 months' time, Boris Yeltsin could be out and fascism could be in. In 6 months' time, the war in Bosnia could have spread to other parts of Europe.

Mr. President, this is the most important task any President has—the conduct of foreign policy. We have heard time and again from this President, President Bush, about the critical nature of the foreign policy decisions he is making.

Mr. President, these and many other vital choices may well be resolved for better or worse between now and election day. For Secretary Baker to walk away from these critical changes now, to essentially determine which negative television commercials, which pack of lies will be said about Bill Clinton, will they be produced or will they not be produced, for him to shift responsibilities to making the decisions on 30-second commercials from making decisions on whether or not there can be a peace agreement and settlement in the Middle East, whether or not Yeltsin can survive, whether or not we can save lives in Bosnia, would be a tragedy, in my view, and the height of irresponsibility.

In closing, Mr. President, I want to make it clear that my call for Secretary Baker to stay in his current post is no slight to Lawrence Eagleburger, who is one of the most talented men with whom I have served in Government, fully capable of being Secretary of State himself. I respect him tremendously, and I have no doubt that he has been a critical architect in the foreign policy of this administration thus far.

But, Mr. President, it would be wrong to dismantle a team and to send a message around the world that determining which ads go on in a political campaign is more important than whether or not there is a continuity and coherence to American foreign policy at a time when leaders in the world are making critical judgments about whether or not there will be war or

peace, critical judgments about whether or not they will settle or not settle, critical judgments about what the nature of their political institutions will be for the next 10 years.

So, Mr. President, I call upon the President to keep James Baker in his current position. This is the only course of action, in my view, consistent with the tradition that the office, the needs of the time, and the hope for a safer world would dictate.

I thank my colleagues for this interruption, and I yield the floor.

Mr. WIRTH addressed the Chair.

The PRESIDING OFFICER. The Senator from Colorado is recognized.

Mr. WIRTH. I ask unanimous consent to address the Senate for 2 minutes as if in morning business.

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

TWO SEMINAL EVENTS IN COLORADO

Mr. WIRTH. Mr. President, last week two seminal events occurred in Colorado, one a retirement, the other a death. I would like to take just a few minutes to comment on each.

First, Bill Grant, a long-time leader in the Denver metropolitan area and in Colorado, recently passed away. His funeral was just yesterday. Bill Grant ran for mayor of Denver, founded its first television station, and comes from a very distinguished family deeply involved in civic affairs and law. Bill and his family have made an enormous contribution to Colorado for three generations. Bill Grant's death has certainly been noticed by tens of thousands of citizens of my State who mourn his passing.

Our condolences go to his family, particularly his daughters, who themselves have been so deeply engaged in civic activities in Denver and Colorado.

Second, I wanted to comment upon the retirement of Dick Kirk, who for many years has been a major force in Colorado economics and in Colorado banking circles while serving as president of the United Bank of Denver. But his contribution does not end there. Dick Kirk has displayed leadership on one activity after another, from the Denver Chamber of Commerce, of which he was president, to all kinds of education activities.

Most recently he was honored by his colleagues in the banking profession for his service as chairman of the American Banking Association, a responsibility that Dick carried out with admirable energy and intellect over the last 2 years. Dick announced his retirement last week, and I wanted to congratulate him on a distinguished career and offer my best wishes for a well deserved retirement. I am sure we have not heard the last from Dick Kirk.

Mr. President, I ask unanimous consent to include in the RECORD a wonderful piece by Bill Hornby on Bill Grant and two articles on Dick Kirk's retirement describing the full scope of the contribution these two very remarkable, energetic individuals have made to Denver and to Colorado.

Mr. President, I thank you.

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

[From the Denver Post, Aug 11, 1992]

BILL GRANT KEPT HIS EYE ON IMPROVEMENT

Bill Grant, who died Friday, stood for the continuing interest in improving life in Colorado of the families whose founders climbed down the stagecoaches. Descended from clans whose names weave through the state's history, William West Grant Jr. had one great uncle, James B., who was the state's first Democratic governor; one grandfather, Charles F. Hendrie, who started Hendrie and Bulthoff, a mining machinery and supply business, in Central City in 1861; and another, Dr. Grant, who as a pioneer physician tended Denver's wounds.

In the next generation, Bill's father, W.W. "Will" Grant, was an aristocratic lawyer and civic leader who nevertheless took on the Ku Klux Klan in the 1920s and made an unsuccessful run for mayor against Ben Stapleton in 1935. As Post columnist Bill Barker put it, "Will Grant found nothing inconsistent in riding to the hounds with the Phippses' Arapahoe Hunt one day and acting as legal counsel for the underprivileged in court the day after."

Our Bill Grant was born in Estes Park in 1910 in a family enclave in the new Rocky Mountain National Park. He had a thorough Ivy League education at Dartmouth and Harvard, returned to the family law firm of Grant, Shafroth and Toll, and built himself an extremely successful law and business career in Denver, including continuing directorship and major interest in Colorado National Bank and the original organization of KOA Television, the first TV station licensed in Denver. He also was a longtime stockholder in KOAA–TV in Pueblo.

But the family tradition of public service was a constant with him, and he became one of the most affable, humorous, and energetic Denver Old Guards in politics, with sympathies far more progressive than normal in his generation of old-family scions. After World War II as a bronze-starred Navy lieutenant commander on the staff of Admiral Sherman in the Pacific, Bill as manager leapt into the 1947 Quigg Newton campaign for mayor against the decades-entrenched Stapleton machine. The Newton new wave swept into office, with Bill riding herd on a band of "Young Turks" that included many of Denver's now-venerable progressives. Bill Brant managed Newton's successful run for reelection in 1951, in between serving as president of the then-unsuccessful attempt to rewrite the Denver Charter. Many of the suggested reforms later were adopted.

Along the trail he was first president of the Denver Commission on Human Relations and served the National Conference of Christians and Jews, the Denver Public Schools, assorted metro transportation commissions, Regis College, Kent School, and the Kempe Center for Child Abuse. He was chancellor of the Episcopal Diocese of Colorado from 1957 to 1963, and active in the Democratic party at many levels.

Thus, in 1963, when various Denver political forces, including Palmer Hoyt of The Denver Post, were looking for an "independent" reform candidate for mayor, it was a natural they thought, for Bill Grant to attempt to replay Quigg Newton's reform role of some years before. Grant no doubt compared the casting to that of his father when he sought to takeover an entrenched and decaying City Hall.

But it was not to be. Reformer Grant did not have either party's precinct organizations, and despite endorsement by both Denver dailies, he was knocked out in the preliminaries by GOP Mayor Dick Batterton and Democratic City Auditor Tom Currigan, the latter proceeding to win the finals. With his gentlemanly lack of bitterness in public affairs, Grant soon went to work for Currigan as chairman of a successful bond issue campaign, and later was chairman of the state Democratic Central Committee from 1965 to 1969.

Bill Grant was one of the best of the many old-family business and professional men who helped build postwar Denver, unfailingly one of the good and kindly guys when it came to improving the lot of his native city and all its residents.

To our misfortune, this pioneer family leadership typified by Bill Grant is passing from the scene as more of Denver's major institutions pass to national ownership. His many friends will be thinking about this as well as the man when they memorialize him at St. Thomas Episcopal Church, 2201 Dexter St. at 10 a.m. tomorrow.

[From the Rocky Mountain News, July 30, 1992]

NORWEST DENVER CHIEF KIRK WILL STEP DOWN

(By John Rebchook)

Richard A. Kirk will retire as chairman of Norwest Bank Denver, the largest bank in Colorado, Aug. 31.

"After a great career in banking, surpassing all my expectations, I've decided to pursue other business and civic interests here in Denver, including serving on several corporate boards," Kirk, 61, said in a statement.

David E. Bailey, 49, president and chief executive officer of Norwest Bank Denver, will assume the additional title of chairman Sept. 1.

Larry Martin, senior partner of Strategic Solutions in Golden, said there was "wide speculation in banking circles" that Kirk would retire when he ended his term as immediate past president of the American Bankers Association Oct. 1.

"All of the other managers already had retired," Martin said, referring to United Bank managements leaving after Norwest's acquisition.

Kirk's banking career in Denver spanned 35 years, including 12 as chairman of the United Bank of Denver, now Norwest Bank Denver.

[From the Denver Post, July 30, 1992]

DICK KIRK STEPS DOWN FROM POST AT NORWEST

(By Steven Wilmsen)

Richard A. Kirk has become the third old-guard executive of United Banks of Colorado to resign in the wake of United's 1991 acquisition by Norwest Corp. of Minneapolis.

Kirk said yesterday he will end his 35-year career at the state's biggest bank holding company, stepping down as chairman of the Norwest Bank Denver, the chain's biggest bank, a post he held for 12 years. He will be replaced by Norwest Bank CEO David E. Bailey, 49, on Sept. 1.

Kirk, 61, was influential in national banking issues as president of the American

Bankers Association from October 1990 to October 1991. He was considered briefly as a candidate to head the Office of the Comptroller of the Currency this year.

He said he will remain on a variety of civic and business boards after his retirement, including Norwest's Community Board.

"After a career in banking surpassing all my expectations, I've decided it's time to pursue other business and civic interests," Kirk said in a statement yesterday.

Kirk is the third of four top executives to leave following Norwest's acquisition Jan. 1. Longtime United Chairman N. Berne Hart and Chief Operating Officer Chuck Hazelrigg resigned earlier this year. A fourth, former Chief Financial Officer Dennis Erickson, remains with Norwest.

The United Bank system was the result of a string of mergers beginning in the 1950s and ending with the merger of Intrawest Bank in the 1980s. Kirk went to work for Denver U.S. National Bank, one of United's predecessor banks, in 1958 after three years with Citicorp.

Mr. WIRTH. I yield the floor.

Mr. METZENBAUM addressed the Chair.

The PRESIDING OFFICER. The Senator from Ohio is recognized.

Mr. METZENBAUM. Mr. President, are we on the bill?

The PRESIDING OFFICER. The Senator is correct.

Mr. METZENBAUM. I ask unanimous consent that the Senate go into morning business so the Senator from Ohio may be recognized for not to exceed 10 minutes.

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

THE PROPOSED NORTH AMERICAN FREE-TRADE AGREEMENT

Mr. METZENBAUM. Mr. President, I rise to address the President's announcement this morning that the administration has reached agreement with Mexico and Canada on a free-trade pact. I have major concerns about this agreement.

The administration is ready to sign this agreement to help American business but there is no concern for its effect on our own workers. Thousands of jobs will be lost. But I do not see any evidence that George Bush is worried about that. We have seen more and more American workers become unemployed and, as an answer, what does George Bush do? Works out a free-trade agreement with Mexico which means more jobs will be lost here in America.

I support in principle the administration's effort to negotiate a North American Free-Trade Agreement. But the proposed agreement will have staggering implications for working people, and the environment on both sides of the border.

I chaired two hearings in 1991 on this issue. The witnesses told us about widespread appalling squalor within a stone's throw of our border. The environmental degradation, the working standards, and the living conditions were absolutely unbelievable. We have pictures. It was just shocking to see the kinds of conditions that exist there—people living in cardboard boxes, water is totally polluted, and people drinking from those kinds of waters. There are working families living in cardboard shacks without running water or electricity, children drinking water from barrels that contained toxic chemicals, and people bathing and washing their clothes in streams poisoned with runoff from nearby plants.

The troubling lessons of the Maquiladora sector have direct relevance to the proposed free-trade agreement with Mexico. Workers in Mexico receive approximately 10 percent of what American workers receive. Workers in Mexico get 10 percent of what American workers receive. And the President is trying to kid us that more jobs will not be taken from this country, to Mexico? One-tenth—every employer will want to go down if he can bring their products back into this country without any restraint; produce the concept, conceptualize the product, let American workers develop the product, and then shoot the jobs into Mexico at 10 cents on the dollar for the workers to bring the products back into this country.

The Maquiladora plants, which rely upon American technology, Mexican productivity is now approaching our own level. A little common sense will tell you the obvious. Cheap Mexican labor will result in massive loss of American jobs in this country. There is no way to deny it. It is irrefutable. If an American employer can take the jobs that are being done in this country for $10, and $12, and $14 an hour and take them to Mexico, then bring the products back here, how do you think we are going to be able to buy those products? Where is the money going to come from? Where are the jobs going to be so people can earn the wages to buy the products?

The President claims there will be a net gain in U.S. jobs because of this trade agreement. That is the same President who said we were not going to have a recession. So if he could not predict that well, how can he possibly predict that there will be a net gain? Who does the President really think he is kidding?

I consider that kind of an assertion unadulterated baloney. There is no net gain that is going to result. In reality, this free-trade agreement could produce a loss of 550,000 high-wage American jobs in the next 10 years.

The Economic Strategy Institute, headed by a former Reagan administration official, predicts potential job losses exceeding 900,000. And this administration acts as if everything is going to be fine.

One thing is sure: Without adequate safeguards, this free-trade agreement will wreak havoc on the lives of hundreds of thousands of American working men and women.

We heard this morning that the White House reached agreement with Canada and Mexico. But where are the agreements? We have not seen them. We have yet to see an effective solution to the environmental problems or serious effort to protect jobs or help workers who lose their jobs.

I was one of the principal authors of the Dislocated Worker Adjustment Program which helps workers retrain for new jobs. I am frank to say that helping workers keep their present jobs is far preferable to worker retraining of those workers who have lost their jobs.

This proposed agreement has no other result than to cost thousands of American workers their jobs. Can anyone believe that the existing retraining programs are adequate to meet this increased demand? Where will the workers go? To which employers will they turn if all the jobs are going below the border? The administration may say that it is not going to cost jobs, but do not believe it. Any free-trade agreement must meet the needs of American workers and I and many others in this Senate will insist upon it.

When the Senate returns from its recess I intend to hold a hearing on these issues. I want to hear from the Department of Labor about how they propose to save jobs, retrain dislocated workers, and where the retrained workers are going to find jobs. I want to know that this administration realizes that there are problems. I want to hear their solutions.

It is critical that we make sure that any free-trade agreement be in the best interests of the American people, be in the best interests of keeping American workers on the job rather than providing retraining for them.

I believe it is time for this body to speak out effectively and forcefully and say to the President of the United States, "Unless you can give us absolute assurance that the free trade agreement will not hurt the American working force, then there is no reason for this body to confirm it."

Mr. President, I yield the floor.

I yield the remainder of my time.

Mr. BAUCUS addressed the Chair.

The PRESIDING OFFICER. The Senator from Montana is recognized.

Mr. BAUCUS. Mr. President, I want to thank the Senator from Ohio for his statement. The administration this morning did announce the recent agreement with Mexico and Canada under the so-called North American Free-Trade Agreement.

I think we all agree that as the world is changing that it makes sense for the United States to be up to date, to take advantage of trading opportunities around the world, particularly with our neighbor to the north and our neighbor to the south. However, I believe quite

strongly that the trade agreement with Mexico and Canada is one that is much different than other trade agreements that we have concluded in the past. That is the United States and Canada, although we have different populations, are really two countries that are very similar. We have similar wage rates, and we have similar environmental standards. We are in many respects quite similar. The same is not true with respect to the United States and Mexico.

The average wage rate in Mexico is one-tenth of that of the wage rate in the United States. In addition, the median age in Mexico is 19 years of age. In the United States, it is 33. There are 80 million people living in Mexico. So there are many, many workers that are potential workers in Mexico at much lower wage rates than exist in the United States, and obviously any American company trying to maximize its return to its shareholders, as well it should—that is the standard obligation these days—is going to seek opportunities around the world and certainly in the country of Mexico with plants and so forth, to maximize their position.

In addition, even though Mexico has environmental statutes which are surprisingly quite good—that is, environmental standards in Mexico, at least by statute, are very similar to those in the United States—nevertheless, Mexico is woefully inadequate in enforcing these environmental standards, which is to say that if Mexico does not enforce the environmental laws, and so far Mexico by and large is not enforcing the environmental laws, that any plant operating in Mexico will have a competitive advantage compared with a plant operating in the United States simply because that plant in Mexico will not have to meet the same environmental standards that a plant would have to meet for operating in the United States.

In addition to that, we all know the pollution along the Rio Grande, up along the border between the United States and Mexico, is astounding. I have visited the border a couple of times, looking at the problems there. And the colonias, I might say, in the other settlements, essentially drop raw sewage right into the river, which is drinking water for a lot of folks who live along the river, and it is a major problem.

This agreement announced by the administration is, in my judgment, quite inadequate in its provisions regarding the border pollution problems.

The administration should attempt to negotiate with Mexico some kind of a border fee arrangement to dedicate the funds necessary to clean up the pollution between the two countries, and to dedicate enough dollars to address Mexico's insufficient enforcement of the environmental statutes. And further, to dedicate dollars for retraining and worker readjustment programs, which are critically necessary in our own country if this agreement were to go through.

Current tariffs between the United States and Mexico, during the period within which they are rolled back on this agreement, generate enough revenue to pay both for worker readjustment programs in the United States, and also for the environmental cleanup that we all know is necessary for a lot of reasons.

Unfortunately, the Bush administration was not at all interested in pursuing any of those ideas. Not only did the administration reject any kind of a border adjustment trust fund, if you will. The administration also rejects, so far—as the Senator very clearly points out—it has not sent up any worker readjustment program in any meaningful way to provide meaningful retraining and jobs for the people who obviously will be displaced if this agreement goes through.

I must say, I am also disappointed that the administration did not follow up on a proposal by the Canadians. Canada proposed during the negotiations that there be some kind of snapback; that is, tariffs that are reduced would snap back to higher levels if a country did not live up to its environmental standards, or if they relaxed the standards.

That was a proposal which, on its face, has a lot of merit. It has certain problems inherent in it. But, nevertheless, it was a good beginning for a negotiation over enforceable environmental provisions that could well be and should be in this trade agreement.

The problem now is where do we go from here, and what do we do now? Obviously, there are major benefits that our people, our workers, the Americans, can achieve, if there is freer trade with the United States and Mexico, because, in many ways, it is now one-way trade with Mexico. We have very low tariffs on Mexican-produced products that come into the United States. Mexico has, by comparison, quite high tariffs on American products going there. So in a very real sense, it has been one-way free trade already, and if we had two-way free trade, American consumers could gain benefits.

There are many steps that we can take between now and when the Congress next year is faced with either ratifying or rejecting this agreement. Because under the law that we have set for ourselves, after the different periods of time are tolled, this agreement will not be before this Congress until next year.

Nevertheless, in the meantime, there are several opportunities during informal consultations with the administration to make our wishes better known, to make it very clear to the administration that if they sincerely want the agreement to be ratified by the next Congress, there have to be some changes.

It is my hope that the administration will listen to all of us in the Congress who have very grave problems with the proposal, as we know about it thus far, reminding the administration that the next Congress is going to be composed of—who knows—150 new Members who will have had nothing to do with this agreement.

If the Senator and I have our wishes fulfilled, we will have a new President next year, who will have had nothing to do with the negotiations, and who will be charged, essentially, under the law, to come up to the Congress and push an agreement, push the Congress, and encourage the Congress to ratify an agreement that he had nothing to do with.

So all I am saying is that there are many opportunities. And I urge all of us who have problems with this agreement to take advantage of these opportunities, so that we can very dramatically improve upon the agreement. And if there is no improvement, then each of us will be forced to take whatever action we feel is appropriate.

Mr. METZENBAUM. Mr. President, if the Senator will yield for a question, because the Senator is more expert on the subject than I. We adopted a fast-track agreement, and the process is very prompt.

Is the Congress in a position to undo that fast-track procedure?

Mr. BAUCUS. The Congress can, and actually the Senate can, Mr. President. It is essentially a Senate rule. We can undo the fast-track process.

I have always, frankly, supported the fast-track process, essentially because every other country has its fast track, because there are parliamentary forms of governments, and they are not constitutionally divided like ours.

Yes; it is within the authority of the Senate to change the procedure.

Mr. METZENBAUM. Mr. President, the Senator from Montana is very knowledgeable in this area, and has spent a good deal of time on it.

I would like to say that the Labor Subcommittee will be conducting a hearing on this subject in September, and if the Senator has the time and inclination to do so, we invite him to sit with us at that time.

Mr. BAUCUS. I appreciate that. I thank the Senator very much.

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

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

TAX ENTERPRISE ZONES ACT

The Senate continued with the consideration of the bill.

Mr. HARKIN. Mr. President, I had hoped to offer an amendment today on this bill. As the time ticks away and as we try to reach an agreement on the underlying amendments that are on the bill, it looks as though it will be impossible for me to offer my amendment this afternoon. So it looks as though we will probably have to offer it when we come back in September. However, Mr. President, if, in fact, the underlying amendments are agreed to, I still hope I might be able to bring it up yet today. Although I must admit that it is looking like it will not be possible.

So I wanted to take this time to basically talk about the amendment and what it proposed to do so people might think about it at least over the break period while we are back in our States and doing other things; so that people might think about this amendment that I will be offering in September.

Mr. President, as we debate the bill and how to improve our tax policy and how to help address the range of problems confronting our urban areas, especially for the millions of young Americans who live there, I am going to be asking the Senate to take a very modest and long overdue step that will contribute significantly to achieving both of these goals.

The amendment, so far, Mr. President, has the cosponsorship of Senators BRADLEY, BINGAMAN, and LAUTENBERG. The amendment we are going to be offering is very simple and straightforward. It would place on tobacco advertising and promotion expenses the same modest limitation on tax deductibility that we imposed on business meals and entertainment in 1986. Our amendment would limit deductibility of these expenses to 80 percent. It would, in turn, authorize at the same level as the revenues generated by this change, funding to the States to support advertising designed to reduce the incidence of tobacco use, with a specific emphasis on reducing the incidence of use among children, pregnant women, and minorities.

In essence, what our amendment is about is smarter spending. It takes money that is now directed at increasing hazardous and costly activities and directs it to decreasing hazardous and costly activities and to improving the health of our country.

Our amendment would save lives, increase productivity and lower health care costs, without spending a nickel more of the taxpayers' money.

Mr. President, the amendment we are going to be offering enjoys broad support. It is supported by the Coalition on Smoking and Health, a group of over 60 national organizations concerned about the public health impact of smoking. This diverse coalition is headed by the American Cancer Society, the American Heart Association, the American Lung Association, and includes groups such as the National PTA, the Consumers Union, and the Committee for Children.

Mr. President, the case for our amendment just could not be clearer. The U.S. tobacco industry spent over $3.6 billion in 1989 promoting its products, an increase of nearly 50 percent in just 4 years. Think about that. The tobacco industry is spending almost twice as much a year advertising tobacco as we spend on the National Cancer Institute to do research on cancer.

This multibillion-dollar effort which American taxpayers help foot the bill for, and let me say that again, this multibillion-dollar promotional effort for tobacco which American taxpayers help foot the bill for, includes ads in magazines and newspapers, billboards, other outside advertising, advertising at supermarkets and convenience stores, use of noncigarette specialty gift items, and sponsorship of promotional activities.

All of this is designed to convince people that smoking is necessary for social acceptance; that it makes one attractive to the opposite sex; that it enhances self-image. It is designed to keep people smoking. But more important, Mr. President, it is designed to attract a new generation of smokers.

It is important to note in debating this urban aid bill that cigarette advertising heavily targets inner-city areas, especially poor inner-city areas. In fact, many of the very areas that this bill targets for enterprise zones in order to build opportunity and hope are lined with billboards and other advertisements promoting smoking, promoting lost productivity, promoting illhealth, and, yes, promoting death.

Does that make sense to anyone? No wonder the American people are saying Government is not working and they want a change.

Mr. President, I want to read from several examples of some of these ads that the American taxpayers are helping to foot the bill for so that everyone understands the kinds of things we are talking about.

I have taken the liberty of collecting some of these ads so people might take a look at them.

Some of these ads are: "Smooth moves, smooth character."

How about this: "Foolproof dating advice." All you have to do is smoke cigarettes. This is Camels in this case. "How to impress someone on the beach. Smooth move number 334."

Here is "Foolproof dating advice, smooth move number 325." And of course there is Joe Camel.

Here is another ad, obviously a very beautiful young woman lying on a beach, very suntanned, very healthy looking, and here is a young man approaching her, and the ad says: "When only a smooth move will do."

What is the smooth move? It is a Camel cigarette. Of course, when you turn the ad over, here is the guy, and he has his Camel cigarettes there, and that is his smooth move on the beach, I guess.

All these ads are designed, again, to say that here is the crowd of young people. Here is a guy with sunglasses on. He looks real cool. And all he has to do is have a cigarette and, man, he is acceptable. See? Or if you are on the beach and you want to impress this beautiful young woman, all you have to do is have a Camel, a Camel cigarette, not the animal, but the Camel cigarette and then you can impress her. See?

Well, I could go on, but that is a brief idea of some of the ads that the cigarette industry puts out. We'll look at a few more in a minute.

Keep in mind, Mr. President, that every one of these ads is tax deductible. Taxpayers foot the bill for this, because they are totally tax deductible. And that is really the crux of our amendment. If you said in 1986 that legitimate businesses could not deduct more than 80 percent of the cost of business meals or entertainment to promote their activities in their business, should we not apply the same standard here? I am not trying to shut it all down: I am not trying to say they cannot advertise. What I am saying is taxpayers should not have to help foot the bill.

Despite what we know about the impact of tobacco use nearly 50 million Americans are smoking regularly. Last year alone, according to the National Cancer Institute, Americans consumed 527 billion cigarettes, or 2,828 cigarettes for every person age 18 and older in America, smokers and nonsmokers alike.

Mr. President, as you can tell from these ads, tobacco advertising increasingly seems to be targeting America's youth. Even though in 44 States it is illegal to sell tobacco products to children under the age of 18, our children are being confronted with characters like Old Joe Camel, and the Kool Penguin.

Here are some of more of these ads. Here we have Old Joe Camel, a smooth character. Of course, we see what Old Joe Camel does. He is winning trophies. He is running in hot-rod races. Old Joe Camel, he is pretty smooth. Of course, these ads are all over and, they are totally tax deductible.

Here are some more ads I thought, Mr. President, you might want to take a look at. Again, to give you an idea of how cigarette advertising is trying to tell you if you smoke, you will be more socially acceptable.

In this ad, here is Barkley in a tuxedo. Of course, if you are cool, you have to have a tuxedo, sort of class.

And here is a Virginia Slims ad. We are all familiar with Virginia Slims.

"You've come a long way, Baby." Right?

So now women can smoke just like men and they can get lung cancer just like men. I will have more to say about that in a minute.

Here is an ad for Players cigarettes. "Players go Places," and a nice crowd of young people. Notice, they are all young, really young people. And they are having a great time and, of course, they are smoking cigarettes.

Here is Salem Spirit ad. "Got what it takes." Of course, they are all on a skiing trip, all having a great time, and they are all very healthy. And this guy has a Salem in his mouth.

We are back here to a Camel ad and it shows you if you want to climb a mountain, you have to have a Camel cigarette. And, of course, it looks very healthy.

And here is a young woman who says "Light my Lucky." Again, a very provocative kind of an ad. And it is all tax deductible—healthy, athletic, young people touting the virtues of smoking.

Tobacco advertising is working. There is no doubt about how powerful the tobacco industry's media campaign is in shaping the attitudes and behavior of our children.

The 1990 report of the National Commission on Drug-Free Schools found that cigarettes and alcohol are by far the most widely used drug by young youths today. They further found that advertising made tobacco use seem glamorous and legitimate. Many students said that tobacco advertising made them feel that using this drug is not only OK but it is essential to being acceptable.

The results of this influence are staggering. For example, it is estimated that children and adolescents consume over 1 billion packs of cigarettes a year. One more time: Children and adolescents consume over 1 billion packs of cigarettes a year, adding $1.25 billion in revenues to the tobacco industry. No doubt why every person you see in these ads is always young. And every day about 3,000 more of our children begin smoking. Every day 3,000 more young people begin smoking.

How old are our kids when they get hooked, Mr. President? I have another chart that gives the answer.

Mr. President, I think this is really the most startling chart of all: 25 percent of all habitual smokers began smoking by age 12, by the 6th grade—25 percent; 25 percent more by age 14, or the 8th grade; and 40 percent more between the age of 15 to 20. That means fully 90 percent of all of the people who habitually smoke in America began smoking by the age of 20—90 percent. They began that deadly habit before their 21st birthday.

And, Mr. President, the age of initiation is getting younger and younger, especially among women. This should come as little surprise when we learn, as the Journal of American Medical Association recently reported, that over 91 percent of 6-year olds questioned recognized Old Joe Camel.

Where is Old Joe? Let us look at Old Joe again.

Here is Old Joe Camel.

In a survey taken, 91 percent of 6-year-olds recognized Old Joe Camel.

And guess what, Mr. President? That is as many as recognized Mickey Mouse. So this is what young people see. They see Old Joe Camel, he is smooth and he is cool, and he smokes cigarettes. So is it any wonder that more and more kids are starting to smoke by the age of 12 or 14, by the time they are in the 6th or 8th grade?

Mr. President, the scourge of smoking and its peddling among our children must be stopped. If we do not, according to Health and Human Services Secretary Dr. Louis Sullivan, at least 5 million of American children who are alive today will die of smoking-related diseases.

Mr. President, while smoking is particularly harmful to America's children and youth, it takes a tremendous toll on our Nation as a whole. This one single activity drains over $65 billion a year from our economy in health care costs and lost productivity—$65 billion a year.

Mr. President, the tax bill we are now considering is supposed to help us spur economic growth and productivity. And here is an activity that is draining $65 billion a year from our economy in lost productivity and higher health care costs. In increased Government health care costs alone, 1990 estimates were that smoking added $4.2 billion to Medicare and Medicaid, $210 million in medical costs to the Department of Defense, and $400 million in medical costs to the Veterans' Administration.

Costs today are undoubtedly much higher. Those were 1990 figures.

Smoking's human toll is even greater. It is the single largest preventable cause of death and disease in America. As former Surgeon General C. Everett Koop said, "Smoking is associated with more deaths and illness than drugs, alcohol, automobile accidents, and AIDS combined."

The latest figures from the U.S. Public Health Service tell us that 434,000 Americans will die from smoking-related illnesses this year. That is more than died in World War II.

Over 1,000 Americans will die today, this very day. As I stand here and speak, over 1,000 will die today from smoking. That is more than the equivalent of two fully loaded jumbo jets crashing with no survivors every day. Think how that would make us feel in this country—two jumbo jets loaded up with people crashing every day. That is how many people die every day in America from smoking.

Medical data on the health effects from smoking are well established. Since 1964, when the first Surgeon General's report on smoking and health was issued, some 50,000 scientific studies on the relationship between smoking and disease have been conducted. Smoking has been shown to be a major cause of heart disease, chronic bronchitis and emphysema, cancers of the lung, larynx, mouth, esophagus, pancreas, and bladder, and pneumonia and stomach ulcers.

As this chart indicates, Mr. President, smoking is responsible for 87 percent of all lung cancer deaths, responsible for 82 percent of all chronic lung disease deaths, 40 percent of deaths from heart disease under the age of 65, and 33 percent of all cancer deaths. I said 87 percent of lung cancer deaths are caused by cigarettes. Thirty-three percent of all cancer deaths. Smoking causes 21 percent of all heart disease deaths, including those over the age of 65. Ten percent of infant mortality is due to smoking, smoking during pregnancy.

At a time when we are working to improve our Nation's effort in the area of women's health, after a decade of serious neglect, it is appropriate to take a quick look at the impact of smoking and the taxpayers' subsidized promotion of it on women's health.

In 1986, lung cancer surpassed breast cancer as the leading cancer killer among women. This year over 50,000 women will die from lung cancer, 75 percent as a result of smoking. And the rates of lung cancer among women continue to grow.

A number of recent studies have made other disturbing findings. A recent article in the New England Journal of Medicine showed that women who smoke are more than three times more likely to have a heart attack than those who have never smoked. We also know that smoking promotes osteoporosis in older women.

Smoking by women also directly impacts children. More than 900,000 babies, nearly one in four, will be born this year to mothers who smoke and the results are dramatic.

Cigarette smoking during pregnancy accounts for 20 to 30 percent of low birth weight babies, 14 percent of preterm deliveries, and about 10 percent of all infant deaths.

And the EPA now estimates that children's exposure to environmental tobacco smoke—much of it from mothers and fathers who smoke—results in up to 300,000 lower respiratory infections a year, up to 15,000 hospitalizations for these infections a year, and up to 1 million attacks of asthma and 26,000 new cases of asthma a year because the parents smoke in the home.

Another group of Americans especially hard hit by tobacco use and its promotion are African-Americans and other minorities. Mr. President, smoking rates are much higher among African-Americans than whites, especially

African-American men. And, again, the results are dramatic. African-Americans are 20 percent more likely than whites to die of diseases attributable to smoking. Compared with white men, African-American men are 45 percent more likely to die of respiratory system cancers, 25 percent more likely to die of heart disease and 90 percent more likely to die of stroke.

Despite all this bad news, especially with regard to our children, women, and minorities, we are making very modest progress in prevention of smoking. Since the Surgeon General's first report on smoking in 1964 the overall prevalence of smoking among U.S. adults has declined an average of 0.5 percent annually.

In 1990, as part of the Year 2000 Health Objectives, the U.S. Public Health Service developed a number of important objectives for further limiting smoking by the year 2000. Targets have been set for a number of diseases and high risk groups. For instance a goal has been set to reduce cigarette smoking among adults to 15 percent from a level of 29 percent in 1987.

These are worthy goals, Mr. President, for the year 2000, but they will be very difficult to achieve with the currently modest prevention programs supported by Federal agencies, State health departments and voluntary agencies. A much more innovative and aggressive approach to the prevention of smoking and tobacco use is needed.

Mr. President, the State of California recently implemented a comprehensive program to combat smoking that we can learn a lot from. This program, established by a statewide referendum, attacks smoking through a number of programs delivered through community health departments, schools, the workplace, and, most importantly, through a hard-hitting counter advertising campaign administered by their health department.

The California Tobacco Control Program works. It saves lives and money. In 2 years, smoking went down 14.6 percent, 9 percent of which was attributed to the Tobacco Control Program. Dr. Dorothy Rice, a nationally respected researcher from the University of California, found that the program resulted in saving lives five times greater than its costs. She estimated cost savings of $744 million over a 2-year period. This is further evidence that an ounce of prevention truly is worth a pound of cure and must be the foundation upon which we reform our health care system.

Our amendment would provide support to every State to operate antismoking advertising programs similar to California's successful effort. The Secretary of the Treasury each year would estimate the increased revenues generated by reducing the deductibility of tobacco advertising from 100 to 80 percent deductibility. That amount would be authorized to be dispersed to the States based on population. The State public health agency would use those funds to support an antismoking advertising campaign. And the States are ready to go on this. Every State public health agency already operates a smoking control program and has written plans in place to expand their efforts. Unfortunately, their ability to fully implement these plans has been severely restricted because they do not have the money. This amendment will enable States to more fully implement and expand on the plans they already have in place. It will take, Mr. President, an effort like this in every State to make a serious dent in the damage that smoking inflicts on Americans. And it will take these kinds of efforts for us to reach the goals set for the year 2000.

Mr. President, the case is clear. The human, health care, and economic costs from the epidemic of smoking-related diseases are staggering. Overwhelming medical evidence now shows that these diseases are caused by smoking and other tobacco products. It is equally clear that this industry must spend enormous amounts of money to recruit new smokers to replace those who quit or die and that the tobacco industry increasingly appears to be targeting our children in tobacco marketing.

Let me say that again, Mr. President. It is clear that the tobacco industry must spend ever-increasing amounts of money to get their products advertised and out there, to replace those that have died or quit smoking, and to get new smokers, smokers who are mostly children and adolescents.

It is also clear that Federal policy in this area is hypocritical and counterproductive. We spend $114 million a year through the Public Health Service to combat smoking. At the same time, the Treasury loses up to 10 times that in revenues because of the tax deductibility of tobacco advertising. And smoking prevention spending—just like maternal and child health care, childhood immunizations and other cost-effective prevention programs—has to compete every year for the inadequate resources that my appropriations subcommittee receives, while the tax write off for tobacco promotion faces no such annual competition for funds.

They can advertise as much as they want, and it is fully tax deductible. It comes with no questions asked. The more they advertise, the bigger their tax write off. Their grasp on the taxpayer's wallet is written in law. It has been as good as gold.

A case could easily be made that we should totally ban cigarette advertising, and this has been advocated by many. But, Mr. President, we are not proposing to do that.

The case could also certainly be made for eliminating completely the tax deductibility for tobacco advertising and promotion. There really is not justification for a dollar of taxpayer's resources being dedicated to subsidize the promotion of the one and only legal product that, in the words of Secretary Sullivan "when used as intended, causes death." Think about that, it is the only legally sold product when used as intended kills people. That in and of itself is reason to treat it differently than any other expense. But we are not proposing to do that.

Instead, Mr. President, our amendment is very modest. It merely seeks to conform the tax treatment of tobacco advertising and promotion to that already applied to business meals and entertainment. And it does not take away a dime from the advertising industry.

I suppose we will probably hear a lot between now and the time we come back in September, perhaps from the newspapers, magazines, billboard companies, that somehow they are going to lose a lot of revenue because of this amendment. That is not true because we are simply taking money from advertising of tobacco and smoking, and giving it back to the States and their public health agencies for advertising that promotes improved health. They can buy ads, they can put billboards in inner cities, they can buy ads in newspapers and magazines to fight tobacco use, to inform young people why it is not cool to smoke and what it means to their health if they do take it up.

So it does not take away a dime from the advertising industry. It puts the money right back into advertising in the form of transfers to each State to fund a comprehensive advertising program aimed at reducing smoking, especially among children, minorities and pregnant women.

As I mentioned earlier, our amendment is supported by the Coalition on Smoking or Health, a coalition representing more than 60 national organizations headed by the American Cancer Society, the American Heart Association and the American Lung Association.

Mr. President, I will just close by repeating what I said when I began. The bottom line is that our amendment is about smarter spending. It takes scarce Federal resources, now directed at selling cigarettes through these kinds of ad campaigns, Joe Cool, and all these other ads that I have here. Right now, we are taking scarce Federal revenues in the forms of tax deductions and saying they can go ahead and advertise all they want to young people, and tell them how great smoking is. Our amendment takes these scarce resources and puts them into advertising that will cut down on hazardous activities and will improve health.

And it will save lives and increase productivity. That is what we are talking about in the tax bill—increasing

productivity. This amendment will increase productivity. It will do it without spending a nickel more of the taxpayers' money.

Mr. President, oftentimes, when I am out with people in my State or other parts of the country, I have asked the question of people: Do you know that advertising for tobacco is totally tax deductible?

Mr. President, 9 out of 10 people I have questioned about that have no idea that advertising for tobacco is totally tax deductible. They do not know that is considered a normal and necessary business expense. Is it ordinary and necessary to advertise the only legal products which, when used as intended, kill people?

So I say it is time, Mr. President, that we have a modest attempt here to cut down on supporting this kind of advertising and to focus more of our scarce Federal revenues on young people to try to convince them to not smoke in the first place. To go after pregnant women and tell them what the hazards are to their babies if they continue to smoke; and especially to counter the tobacco industry's targetting of minorities—especially African-Americans in our inner cities—to let them know what it means if they take up smoking, also; and what it is going to mean in their health, and what it means in terms of lost productivity and their chances to succeed in life.

Mr. President, I take this time—and I understand we probably will not be able to offer the amendment today, because of the time constraints we have right now. I know we are about ready to recess until September. But I did want to take this opportunity—and I appreciate the managers of the bill for allowing me this time to speak as in morning business—to give our colleagues an idea of what the amendment we will offer in September will be.

I am sure that the American Cancer Society, the Lung Society, the PTA, the Consumers Union, and others, will be contacting people during the break to get them to support this amendment.

Mr. BRADLEY. Mr. President, if the Senator will yield, the Senator from Iowa knows I will be joining him in this amendment. For the last 3 to 4 years, I have had a bill in the Finance Committee to essentially eliminate the deduction for tobacco advertising.

The Senator's amendment would—as I understand it, as it will be crafted in September—only eliminate 20 percent of the value of that advertising deduction. I hope the Senator will keep an open mind as he thinks about how he might craft that amendment between now and then. Because, as the Senator knows, it costs American taxpayers almost a billion dollars every year that we give to tobacco companies to advertise with these kinds of advertisements, to attract young consumers to get hooked on tobacco, which ends up ending their life sooner and costing us all more money in health care costs.

Will the Senator keep an open mind as he thinks about his amendment over the next 3 to 4 weeks, in that it might even do more?

Mr. HARKIN. Mr. President, I appreciate the Senator supporting this amendment, as I have supported his in the past. Certainly, there has been nobody who has taken a stronger leadership role for more years than the Senator from New Jersey in trying to address this vexing problem that we have of cigarette advertising and promotion of tobacco in this country.

The Senator has been a leader on this. I certainly will keep an open mind. But, I must say, in thinking about this, I thought, if we are really serious about this, at least we ought not to say that if you are a legitimate business person, with a legitimate business, and you are taking someone out to a lunch to discuss business matters, that you can only deduct 80 percent of that—as we said in the 1986 tax bill—but if you are promoting illness and lost productivity and death by pushing cigarettes, to promote your business selling cigarettes, you can deduct 100 percent of that.

Mr. BRADLEY. There is a certain symmetry to the Senator's argument.

Mr. HARKIN. Mr. President, I am hoping people will see that. At least, if we are not ready to take the giant step that the Senator from New Jersey is proposing—which I will support, by the way; but I do not know that that support is here—if we are not ready to support that big step, let us at least put tobacco promotion on the same footing as business meals and entertainment.

Mr. BRADLEY. Does the Senator have the same experience I do from time to time, Mr. President, as I talk about this issue in my State of New Jersey; and that is that the public is totally unaware that their tax dollars are essentially subsidizing these advertisements? When you share with the public that almost a billion dollars of their tax dollars go essentially to these companies so they avoid paying tax—a billion dollars more—they have a little different reaction.

I think it is very important that the Senate have a vote on this issue, and then I think the public will have something to point to as to whether someone was for the continuance of a policy that shortens life, or whether someone wanted to save taxpayers a couple hundred million dollars.

Does the Senator not recall the look of surprise on the faces of people when they first learned that nearly a billion dollars of their tax dollars were going to that character?

Mr. HARKIN. Mr. President, this is Joe Cool, the Camel character.

The Senator is right. I have done this many times in town meetings, and with people all over America. When I talked about health care, I have asked them how many people know—I phrased it in a different way, but to get the substance of it, I asked: How many people really understand that this kind of advertising is totally tax deductible? And 9 out of 10 people do not understand or know that. I think the American people do not want that to happen. They want to see that this kind of tax deductibility for advertising ends.

I do not know if the Senator was here earlier. I stated that a recent survey of American kids showed that 91 percent of 6-year-olds in America recognize Joe Cool, the Camel character, the same number that recognize Mickey Mouse. There is a reason they are doing this.

Mr. BRADLEY. That is an outrage on many levels, let me assure the Senator.

Mr. HARKIN. That is true.

Obviously, Mr. President, they are going after the younger people. I pointed out that now we are finding that almost 25 percent of habitual smokers start smoking before the age of 12; 50 percent, by the age of about 15; and 90 percent, by the age of 20.

Again, all of the advertising is targeted toward young people and kids to let them know they can be like Joe Cool if they smoke.

I think it is an outrage.

Mr. BRADLEY. Mr. President, will the Senator also not agree that, so often, these subsidies that find their way into the Tax Code, or into expenditures, are there primarily because the Congress has never had a chance to vote up or down on whether we want them there?

Mr. HARKIN. That is right.

Mr. BRADLEY. They are there because of various maneuvers and pressures within an institution, Mr. President.

And all the Senator is seeking to do, I think—and correct me if I am wrong—is to say let us have an up-or-down vote as to whether 51 U.S. Senators want to continue this process of subsidizing the tobacco industry, the tobacco companies.

Mr. HARKIN. Mr. President, that is all this Senator is trying to do.

I think the Senator from New Jersey has given our colleagues a warning of what is about to come. We have our amendment. It is a straightforward amendment that deals with the Tax Code reducing this deduction to 80 percent.

I can tell the Senator from New Jersey, as I tell my constituents: Between now and when we come back in September, there is going to be some way, some maneuver, that will be tried, that will be brought out here in order to avoid having to have a clear vote on this amendment.

So I am taking my case to the American people, saying we ought to have an up-or-down vote on this, just as the Senator said, and I am hopeful that we

do not have that kind of maneuver. I hope we have an up-or-down vote and let us see how the Senate wants to vote on this tax subsidy program.

I thank my esteemed colleague from New Jersey for his long support in this effort and welcome his support for this amendment and hope, when we get back in September, we can have further debate and discussion on it, Mr. President. I am certainly hopeful that the Senate will be willing to have an up-or-down vote on this and let the American people know just where we stand on this very important issue.

Mr. President, I yield the floor.

Mr. LAUTENBERG. Mr. President, I regret that the Senate may not be able to take up the Harkin amendment on the tax subsidy for tobacco advertising. However, I look forward to working with the Senator from Iowa to pass this amendment in September when we return to the tax bill. In the meantime, I wanted to make a few comments about the amendment.

Mr. President, the tax bill that is pending before us is designed to provide a variety of incentives to individuals and business to invest in our cities and to revitalize our economy. The Finance Committee has approved such provisions because these types of investments will have a positive affect on our economy. There are many other incentives in the Tax Code designed to encourage certain economic and social behavior.

This amendment seeks to remove one incentive that, instead of encouraging positive behavior, encourages sickness and death. The Tax Code provides 100-percent deductibility for advertising of tobacco products which cause death for not only those who smoke but for those who breath secondhand tobacco smoke.

Mr. President, our Tax Code is promoting consumption of tobacco products at the same time that the Secretary of Health and Human Services and the Surgeon General are telling us that smoking is hazardous to our health. This is outrageously hypocritical.

Mr. President, this is not a small loophole in the tax law that is rarely utilized. The tobacco industry is taking great advantage of this full deduction. In 1989, the tobacco industry spent $3.6 billion on advertising and promotion. This is almost a 100-percent increase in these expenditures since 1980, and this is adjusted for inflation.

The tobacco industry spent almost $2 billion in 1989 on promotional activities, couponing, and retail value added. Promotional activities include amounts paid to retailers for shelf space, cooperative advertising, and trade promotions to wholesalers. Couponing and retail value added activities include cents-off coupons, multiple pack promotions, and noncigarette items such as lighters.

In addition to these expenditures the tobacco industry spent $380 million on magazine advertising in 1989 which is a 7-percent increase over the previous year. The industry also spent $358 million for outdoor advertising, which is up 12 percent from 1988.

Mr. President, why is the tobacco industry increasing its advertising and promotional activities? The answer is because advertising can help sway people to take up this life threatening habit. Because public awareness about the dangers of tobacco products is increasing, the industry has stepped up its efforts to encourage more and more people to begin smoking.

While I am extremely disturbed by increased tobacco advertising, I am outraged by the tobacco industry's subliminal effort to make smoking appear attractive to children. Nothing is more illustrative of this practice than the image of Joe Camel which is used to promote Camel cigarettes.

Mr. President, according to research published in the Journal of the American Medical Association [JAMA] last year, the image of Joe Camel is as recognizable to 6-year-old children as Mickey Mouse. Another study published in the same edition of JAMA concluded that while 94 percent of all high school students could identify Joe Camel, only 58 percent of those over the age of 21 knew the character.

While we can only speculate about the intentions of those who promote Camel cigarettes, it is clear what the effect is. The effect is that young people are responding to this cigarette advertising.

Even Secretary of Health and Human Service Sullivan condemned advertising which targets specific groups such as youth, women, and minorities. In October 1991, Secretary Sullivan stated that "Cartoon figures can't hide the truth: Smoking is the number one preventable cause of death in America."

Is the Joe Camel campaign working? The JAMA studies show that Camel cigarettes are now smoked by 33 percent of smokers under the age of 18, compared with less than 1 percent before the Joe Camel advertising campaign began in 1988. This study shows that advertising campaigns geared to children pay off for the tobacco industry.

While the tobacco industry may have the right to run these ads, should the policy of the U.S. Government to fully subsidize the costs of such campaigns through tax deductions? I believe that we should not.

This amendment does not take away the entire deduction for tobacco advertising. This amendment only reduces the deduction from 100 percent to 80 percent, the same level of deductibility for business meals and entertainment. Given the fact that tobacco kills 434,000 people each year, I think this amendment is a rather modest one.

Now opponents of this amendment will argue that this amendment violates freedom of speech issue or curtails interstate commerce. I disagree. Promotion and consumption of tobacco products is a public health issue. As I stated previously, the Secretary of Health and Human Services has stated that tobacco smoking is the No. 1 preventable cause of death in America.

The cost of tobacco smoking on our health care system and our economy is tremendous. The costs of treating tobacco-related illnesses is $65 billion a year or $260 for every American. We simply cannot afford to subsidize the promotion of tobacco products that end up costing all of us in increased health expenditures and lost productivity.

Mr. President, every day 3,000 children begin smoking and more than 50 percent of all smokers are addicted by the age of 14. We need to reverse this tragic trend. We need to slow down the advertising machine of the tobacco industry that is enticing our children to smoke. The Harkin amendment is a first step in this direction. I urge my colleagues to support this amendment and remove some of the taxpayer subsidy of this deadly advertising and promotion game.

Mr. SANFORD. Mr. President, my colleague from Iowa has indicated his intention to offer an amendment to H.R. 11 which seeks to partially disallow the tax deductibility of promotional costs associated with cigarettes. I hope my colleague will not offer this amendment when we come back in September, but today I want to make sure that his earlier comments do not pass by unanswered.

There are several problems with this amendment. First, it mistakenly assumes that the advertising and promotion expense deduction is a taxpayer subsidy. It is not. It is like any other deduction for ordinary business expenses.

Supporters of this amendment claim that this measure will be budget neutral. It will not be. This amendment will reduce the overall amount spent on advertising and promotion, resulting in less Federal tax revenue. This would offset any increase in revenue produced by this amendment. We went down this road earlier with the luxury tax and the only folks we hurt were those workers and their families struggling to keep their jobs. Let us not turn around and do the same thing to our tobacco farmers.

By forcing the tobacco companies to finance antitobacco messages by third parties, this amendment mistakenly assumes that the antitobacco message needs additional amplification. We have taken great steps to help America's consumers, and there is no evidence that there is any confusion or lack of knowledge among them about smoking and tobacco. Moreover, a series of court cases affirm that the Government may not tell private parties what to say or force private parties to

use their own property to facilitate the speech of others.

More disturbing than the mistaken assumptions underlying this effort is the outright attack on the first amendment to the Constitution by this amendment. Let me be clear, cigarettes are not right for everyone, but the suppression of free speech is wrong for all of us.

This amendment violates the first amendment because it targets tobacco product advertising exclusively, based solely on governmental disapproval of its expressive content. Just last year, the Supreme Court ruled that "a statute is presumptively inconsistent with the first amendment if it imposes a financial burden on speakers because of the content of their speech." In that decision, the Court stressed that the "Government's power to impose content based financial disincentives on speech * * * does not vary with the identity of the speaker."

The Court has made clear that speech includes product promotion and has not hesitated to invalidate taxes because of their impact on speech.

I understand that the Senator from Iowa means well in his efforts. However, this is not the approach to take if he has concerns about the health of our citizens. Attacking the first amendment, no matter how well-intentioned, is never justified.

I recognize that this proposal is popular in many quarters; but that is all the more reason to scrutinize it carefully for constitutional defects. We will inevitably come to rue the day that we put the Constitution aside in the name of political expediency. If Congress can effectively ban tobacco advertising because some believe that using tobacco is a bad idea, then legally there is no reason why Congress can't ban the advertising of any other legal but socially controversial activity. What might be next?

There is abundant medical evidence that a diet high in saturated fats promotes heart disease. Shall we take away the deduction for the promotion of steak houses? Should we take away the deduction for the advertisement of dairy products?

Once we start down this road, where will it end? There are too many perfectly legal activities in which some people take great pleasure, but which others think are ill-advised. Senator Ervin, the great former Senator from North Carolina, used to love to remind folks around here that there is no such thing as a minor incursion on our constitutional rights. If the Congress suppresses tobacco advertising because a majority is persuaded that smoking is a bad idea, then the truthful advertising of every other private activity and every other product becomes susceptible to suppression at the hands of a majority.

I believe that this country was created, among other reasons, so that all ideas—even unpopular and questionable ideas—would have a safe harbor from tyranny and suppression. We should not sacrifice that great principle, no matter how seductive the opportunity. I am hopeful that this amendment will not be pursued. If it is, we must vote down this amendment and stand up for the protection of free and truthful speech.

Thank you and I yield the floor.

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

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

Mr. SYMMS. Mr. President, might I ask what the parliamentary situation is?

The PRESIDING OFFICER. There are amendments pending in two degrees to the committee substitute to H.R. 11.

Mr. SYMMS. If there are no other Senators seeking recognition—and I see the managers of the bill are in consultation—I ask unanimous consent that I might be allowed to speak as though in morning business.

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

WHY NOT HONOR THOMAS PAINE?

Mr. SYMMS. Mr. President, I rise today to add Senator GRAMM, of Texas, to the list of 73 other Senators who support Senate Concurrent Resolution 110. We have joined together to allow Thomas Paine to be honored, at no cost to the taxpayers, at the intersection of Pennsylvania and Constitution Avenues.

I ask unanimous consent that Senator GRAMM, of Texas, be added as a cosponsor to Senate Concurrent Resolution 110.

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

Mr. SYMMS. More than 125 professors, department heads, university presidents and civic leaders have joined the members of the Thomas Paine National Historical Association of New Rochelle, NY, and the Thomas Paine Society of England in endorsing Senate Concurrent Resolution 110.

Mr. President, nearly 200 years ago, the man who made the first public call for the abolition of slavery died. In fact, it has been more than 100 since President Lincoln took that action.

Thomas Paine, who immigrated to Pennsylvania from England, deserves the long overdue honor described in Senate Concurrent Resolution 110.

Since I started this project in the 101st Congress, I have enjoyed hearing the personal observations about Paine from hundreds of people around our Nation and around the world.

John Adams was right when he said: "History is to ascribe the American Revolution to Thomas Paine."

Incidentally, Adams also noted: "without the pen of Paine the sword of Washington would have been wielded in vain."

Unfortunately, here in Washington, the capital of the Nation he helped create, we have ignored him except in our speeches and a couple of paintings.

Simply, Tom Paine played an essential role in establishing the United States. As a result, we have now become the beacon of hope, shining for people seeking freedom and protection of their individual rights by abusive governments.

Today I rise to share with my colleagues a letter and an editorial submitted to the Wall Street Journal and other papers by Adam Understein. He is a young man who is earning his master's degree at the American Graduate School of International Management in the great State of Arizona.

Incidentally, both of the Senators from Arizona are original cosponsors of this measure and I appreciate their support and assistance.

Mr. President, I know you have plenty of things to read. I do, too. But, this editorial by a member of the next generation is well worth your time and that of our colleagues.

This young man, a member of the generation who will inherit our $4 trillion debt, is also a member of the generation who will enjoy the post-Communist world.

He has a vigorous and optimistic outlook for the future, and ties it to an understanding and reverence for our past—I would like to share his essay.

UNITED WE STAND

As we concern ourselves with overcoming our national problems, it may be useful to take a lesson from our past, embedded in our heritage. The man who should explain it is long since gone, but his ideas live, and his story and his words can still come to our rescue. He saw that we can, we did, and we shall overcome all our difficulties if we stay united and dedicated to certain principles. This nation needs unity, and it needs to remember this man.

In February, 1776, a little known Englishman living in Philadelphia renounced his British heritage and declared that from that time forward he was an American. He spread the news to all who cared to understand why a British subject should seek to cut the ties to his heritage. This man was Thomas Paine, and he explained his beliefs in what has been called the most important pamphlet ever written in the English language: "Common Sense."

While colonial officials in America were still petitioning the King for a redress of their grievances, while colonial men had taken up arms to enforce their rights as subjects under the British Crown, and while honest men feared radical talk of Independence, "Common Sense" said: "Everything that is right or natural pleads for separa-

tion.* * * In free countries, the law ought to be King.* * * A government of our own is our natural right."

Paine did not simply make these statements, but he explained them, offered evidence, and refuted every reason put forward for the colonies to remain governed by the British Crown. His argument was not only rational, but compelling. Out of a population of 3,000,000 colonists, an estimated 300,000 copies of "Common Sense" were sold (which equates to 25 million copies today). Those who could not read, had it read to them. His words united the separate colonies more than the bloodshed has before and stirred the people into action. Thomas Paine became the most influential man of his time and set the philosophical foundation for the American Revolution. Five short months later, a newly united America produced the Declaration of Independence.

Paine wanted us to see ourselves not as Virginians, not as citizens of New York, or Delaware, or Massachusetts, but as Americans. United as Americans we could overcome any obstacle, even the most powerful nation in the world, but as individual states we would fall divided: "As United States we are equal to the importance of the title, but otherwise we are not."

Paine did not just philosophize. He was a pragmatic man of action, and he deplored hypocrisy. He insisted all proceeds from his publication be contributed to support soldiers in the field. He enlisted as a private in General Washington's army and fought alongside other men who now knew they were fighting as Americans.

On the evening of December 23, 1776, with American forces on the brink of defeat, when morale was at its lowest, and when brave men were beginning to waiver, Thomas Paine, by the light of a campfire, pulled a piece of parchment over a drumhead and began anew what he did best. It became known as "The Crisis", a series of writings during the long war, and General Washington ordered Paine's words read to all his soldiers. Paine began:

"These are the times that try men's souls: The summer soldier and the sunshine patriot will, in this crisis, shrink from the service of his country; but he that stands it now, deserves the love and thanks of man and woman. Tyranny, like hell, is not easily conquered; yet we have this consolation with us, that the harder the conflict, the more glorious the triumph. What we obtain too cheap, we esteem too lightly: 'Tis dearness only that gives everything its value. Heaven knows how to put a proper price upon its goods; and it would be strange indeed, if so celestial an article as freedom should not be highly rated."

Paine's words cut through distress like a beacon of strength and impassioned our soldiers to turn the tide against tremendous obstacles. After the war was won, Paine's final writing in "The Crisis" included the following reflection:

"So far as my endeavors could go, they have all been directed to conciliate the affections, unite the interests and draw and keep the mind of the country together. * * * Independence always appeared to me practicable and probable; provided the sentiment of the country could be formed and held to the object: and there is no instance in the world, where a people so extended, and wedded to former habits of thinking, and under such a variety of circumstances, were so instantly and effectually pervaded, by a turn in politics, as in the case of independence, and who supported their opinion, undiminished, through such a succession of good and ill fortune, till they crowned it with success."

Paine not only guided separate colonies to unite in Independence, but he did all that was in his power to keep the union together through the scourge and devastation of war. Americans clung bravely to the principles he revealed to the end, and they prevailed.

As the forefathers of this nation understood (but perhaps many of us have forgotten), the American Revolution itself was not a war. The revolution was an idea, a set of principles spawned in the Enlightenment and embraced and spread by the people of America. Americans recognized individual freedom as the basis for society; they held that government's purpose, its reason for existence, was to protect that freedom (life, liberty, and property); they believed in self government and the right of revolution.

As these principles spread, so did Paine's influence and renown. After Britain was defeated and America's Independence was secure, Paine travelled to France, where he foresaw the principles of freedom would next take root. He was given honorary citizenship, and two separate districts of France wanted him to represent them in the National Assembly. Not only did this American sit as an elected representative with the French Revolutionaries in the National Assembly, but he drafted the Declaration of the Rights of Man and of the Citizen, which stated the principles of the French Revolution and to this day remains cherished by the citizens of France. When events in France turned against those principles, the man of reason, Paine, was quick to speak out. For his vigilance, he was sentenced to the guillotine (but barely escaped).

For all his selfless contributions to humanity, his eventual return to America and his death went essentially unnoticed. In fact, this man, who had such an influence on the birth of the United States and the spread of freedom, is hardly known today in the land he loved. It seems almost incredible, but 216 years after he wrote "Common Sense", there is no national recognition of his life's efforts. There is no monument or any place where citizens can go to pay tribute, nowhere to learn about Paine except in the library; no honor has been bestowed to recognize what he did for our nation. He may merit little more than a footnote in the history books of our children.

There is a chance that the current Congress, if spurred by interested citizens, may finally afford Paine recognition. Senator Symms has introduced a bill that would establish a Thomas Paine Memorial on the grounds of the United States Capitol, and similar legislation has been introduced in the House. No government funds would be used to pay for this project. Its cost would be borne by the donations of private citizens.

It is true that there is no lack of monuments in Washington, DC, and Paine, himself, would probably consider his anonymity inconsequential as long as the principles he held so dear were flourishing. However, we must recognize this man—not merely to express gratitude, honor, and respect, all of which he richly deserves—but for selfish reasons; for ourselves. We need to remember Thomas Paine. Our nation needs his inspiration. We need to remember his perseverance, thoughtfulness, and foresight. A monument to him would remind us that we can, we did, and we shall overcome all our difficulties if we stay united and dedicated to the principles that founded this nation.

There is no better, and no more appropriate, site for a Thomas Paine Memorial than on the grounds of the United States Capitol, which itself stands as a testament to his belief that men are free and self-governing. Our national Representatives and Senators would be able to look from the Capitol upon Paine's memorial and would be reminded daily that united we survive, succeed, and prosper—and divided we fall. At the memorial, children would be able to see an original American patriot and become inspired as they learn about the origins of our nation. It would cost taxpayers nothing, yet generations to come would benefit.

In 1776, Paine looked around the world and saw America as the only place where freedom still flickered. The flame was threatened, and he acted to preserve it with all his ability and life energy. He had the foresight to state with confidence: "The cause of America is in a great measure the cause of all mankind. * * * Posterity are virtually involved in the contest, and will be more or less affected, even to the end of time, by the proceedings now."

May this memorial be built with the support and gratitude of free Americans. May it inspire us and future generations with the leadership that one man had in 1776, a man with foresight who explained his vision and, from a collection of weak colonies, united a free nation. Remember Thomas Paine, America.—ADAM UNDERSTEIN.

Mr. President, I thank the indulgence of my colleagues for the time, and I yield the floor.

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. ADAMS. 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. ADAMS. Mr. President, I ask unanimous consent that I might proceed as in morning business for a period not to exceed 3 minutes.

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

TUBERCULOSIS

Mr. ADAMS. Mr. President, 2 years ago I had the opportunity to chair a hearing of the Labor and Human Resources Committee on the reauthorization of the Tuberculosis Control and Prevention Program of the Public Health Services Act. Expert testimony at that hearing made it clear that tuberculosis has developed in the past decade into a major threat to public health. We were told how the long-term decline in TB in the United States came to an end in the mid-1980's and cases had again begun to rise. We were told that in 1990, there were over 25,000 reported new cases of TB, the largest annual increase since national reporting began in 1953. We were told that the success of past prevention and control efforts led to the retreat of the disease into population subgroups; immigrants, persons who are HIV positive, and the homeless. And it was among

these subgroups that cases of tuberculosis were now on the increase.

One of the main factors in this increase was that TB was no longer perceived as a health problem. Dr. George Comstock, who spoke at that hearing in 1990, warned in 1973 of the continued threat from tuberculosis. He said "A real danger exists that as tuberculosis becomes a less important problem, control efforts will be relaxed when they should be redirected." Secure in the belief that TB had been defeated, the support system of services was removed, the sanatoria were closed, and the resources for control and prevention, programs were whittled away by apathy.

At the hearing 2 years ago, one expert from Washington State described how in the space of 6 years, new cases of TB in the Seattle-King County area had increased by 33 percent from the record low of 1984. This mirrored similar increases elsewhere in the United States. More alarming were the growing number of TB cases where the disease was resistant to one or more treatment drugs. The development of drug-resistant tuberculosis is a symptom of an underlying malaise in the health care structure. It was patently clear that we were not dealing with a temporary blip in the incidence of the disease, but with a sustained increase that threatened to undo decades of prevention and control success. We had a clear picture of the potential consequences of inaction. It was a hearing which impressed on all those present the urgent need for decisive intervention to tackle and reverse this increase in tuberculosis before it developed into a greater threat to public health.

I was in the uncomfortable position of both chairing that hearing and sitting on the Appropriations Committee that was to determine the funds available to the Tuberculosis Prevention and Control Program. When the appropriations process moved forward that year, faced with all the demands for Federal funds, the urgency of the tuberculosis issue was lost, and the necessary resources were not made available. As a result of our failure to heed the warning, 2 years later, the problem of tuberculosis has escalated dramatically, and the human cost of an underfunded control and prevention program is staring us in the face. Reported cases are still rising; if anything, recent evidence points to them rising faster than before.

In my own State, reported cases of TB in the Seattle-King County area have increased by 17 percent in the first 6 months of this year alone, hitting disadvantaged groups the hardest. Sixty percent of these cases are among individuals born abroad. It is among the medically underserved that we are witnessing the development of a tuberculosis epidemic. The Seattle-King County Department of Public Health estimates the risk of contracting TB among nonwhite individuals is 15 times that for whites, while the homeless are 40 times more likely to contract the disease.

This is a situation prevalent in other major urban centers of the United States, as the U.S. Conference of Mayors recently recognized. But the most threatening development in the epidemic in the last few years has been the rise in drug resistant TB. We are now facing a mutant strain of tuberculosis which does not respond to the traditional drug treatments available. This multidrug resistant tuberculosis stems from the underlying problems and deficiencies of the health care infrastructure. The difficulties of providing health care and ensuring access for the disadvantaged groups with a high incidence of TB are complicated by the need to provide sustained and comprehensive treatment. It is not sufficient merely to prescribe TB control drugs when there is a noncompletion rate of over 20 percent. Through misusing or not completing a course of drugs, a patient can develop resistance to that treatment, and multidrug resistant TB is now facing us as the consequence of an underfunded Federal TB Control Program.

If health authorities had the resources to establish outreach programs which would simply oversee the taking of medication by the patient, the success rate of treatment and the incidence of drug-resistance would be substantially lower. One such program of directly observed therapy in Mississippi has demonstrated the value of this approach and the need to extend it to other areas of the country.

Especially at risk from the disease are those with HIV infection, who are prone to tuberculosis as one of the early symptoms of the full AIDS condition. HIV associated tuberculosis was identified at the recent International AIDS Conference in Amsterdam as an increasingly significant factor in the HIV epidemic. In Seattle for instance, the percentage of TB cases that are HIV positive has this year risen to 20 percent.

With the continued rise in the number of TB cases, with the increase in multidrug resistant TB, and with new outbreaks of the disease in institutions such as hospitals, prisons, and homeless shelters, the Department of Health and Human Services goal of TB elimination in the United States by the end of the next decade becomes more and more difficult. Yet, it was made clear at that hearing 2 years ago that we are not faced with a stranger to medical science. The World Bank describes tuberculosis as the most cost effective infectious disease to prevent and treat. The Center for Disease Control estimates that for every dollar of TB prevention and control funds, $3 to $4 are saved by the Nation in health care costs, while the cost of treating multidrug resistant tuberculosis ranges from $100,000 to $250,000 per patient.

Two years ago, we failed to act on the warning that the tuberculosis epidemic was growing into a major threat to public health. As a result, the problem has worsened and the cost of tackling it has risen. The Center for Disease Control places the cost of full implementation for the necessary TB Control and Prevention Programs at $550 million for fiscal year 1993. As the developments of the last 2 years demonstrate all too clearly, we save nothing by underfunding the Federal TB program; we simply allow the problem to escalate and increase the cost of treatment in the long term. It is unacceptable for a disease we can control to be ignored, and allowed to develop further as a public health problem. Mr. President, it is time we gave an unequivocal commitment to the goal of eliminating tuberculosis.

Mr. President, I would like, in closing, to express my appreciation for the excellent staff work I have been provided on this issue by an intern in my office, Mr. Matthew Stone of London, England. Matt is entering his final year reading history at Christ Church, Oxford University, and was assigned to my Senate office through a program of the English Speaking Union in conjunction with the Catholic University of America. For nearly 2 months, Matt has accompanied me to a wide range of committee hearings, executive sessions, and constituent meetings. I am hopeful that this internship has provided Matt with an inside view of our legislative process. My entire staff has appreciated Matt Stone's enthusiasm and desire to learn about the American legislative process. I wish him well in his future endeavors, and thank him for his work on this serious public health issue.

Mr. President, once again let me say, this is a great tragedy. This is a disease, like others, that we had already eradicated. And not having properly funded the program, we now see it beginning to rise again. It is very contagious, it is very dangerous to the entire population if a significant amount of the population, particularly those who handle food and those who are in certain climates and those who are exposed to others at close proximity who have the disease. I hope we will properly fund this program. I thank the President and I yield the floor.

The PRESIDING OFFICER. Who seeks recognition?

Mr. DOLE. 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. 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. The Senator from Texas is recognized.

TAX ENTERPRISE ZONES ACT

The Senate continued with the consideration of the bill.

UNANIMOUS-CONSENT AGREEMENT

Mr. BENTSEN. Mr. President, I ask unanimous consent that the pending Metzenbaum and Dole amendments be temporarily laid aside; that Senator BRADLEY be recognized to offer his amendment on urban initiatives; that there be 1 hour for debate, equally divided in the usual form prior to either a motion to table or a point of order to be made by the chairman, or his designee; that if the point of order is waived or the amendment not tabled, then the amendment remain debatable and amendable; that no second-degree amendments be in order until either the motion to table or the point of order is disposed of, nor any amendments to the language proposed to be stricken.

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

Mr. BRADLEY addressed the Chair.

The PRESIDING OFFICER. The Chair recognizes, under the previous order, the Senator from New Jersey [Mr. BRADLEY].

AMENDMENT NO. 2938

(Purpose: To delete certain provisions of the bill and authorize spending for four urban initiatives)

Mr. BRADLEY. I send an amendment to the desk on behalf of myself and Senator WELLSTONE.

The PRESIDING OFFICER. The clerk will report the amendment.

The legislative clerk read as follows:

The Senator from New Jersey [Mr. BRADLEY], for himself and Mr. WELLSTONE, proposes an amendment numbered 2938.

Mr. BRADLEY. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

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

(The text of the amendment is printed in today's RECORD under "Amendments Submitted.")

Mr. BRADLEY. This bill started as a response to a crisis in our inner cities. What we have before us is a $30 billion urban aid bill that spends only about $8 billion on urban aid. Instead of squarely facing the cycle of despair we have created in our inner cities, this bill has become the engine for extenders, passive losses, and minimum tax relief.

I think this is an incomplete urban aid bill and a questionable tax bill. In trying to do too much, we have accomplished too little.

The amendment I offer today with Senator WELLSTONE aims at restoring some balance to the bill. It is based on a simple principle: Rather than creating new work for tax lawyers and accountants, we should be creating jobs for those hit hardest by the latest recession, whether they live in Los Angeles or in Newark. Rather than creating new tax breaks for the wealthy, we should be doing more to help the least fortunate among us. This amendment cuts tax expenditures in the bill which go to large corporations and to the wealthy in order to put more money into urban programs.

Much of the urban portion of the bill before us is commendable. But we should also explore new policy options. The best of the conservative agenda should be combined with the best of the liberal agenda, and it should become an American agenda for urban America.

So I am pleased that we are going to give enterprise zones a try.

The chairman of the Finance Committee is to be commended for his efforts on this front. I am pleased that he included some other provisions that will help bolster families, put people to work, and save children in the cities and in other poor neighborhoods.

But these programs will not lure business back to our cities. To restore the urban economy, enterprise zones cannot be the only thing we try. Alone, they cannot restore urban America, an urban America that is sicker, poorer, less well educated and more violent than at any time in my lifetime.

To say that all we need is urban enterprise zones obscures the depth of our problems. The message it sends to cities is that we do not know what to do; we are not going to think about what to do, and, if forced to do something, we will toss in a modest tax break and hope that it might work all by itself.

Mr. President, I am more optimistic about our cities' economical potential. I believe we can generate an economic renaissance but not by just wishing it. We need to do more than just try to lure business back with a tax break, because businesses do not make decisions about location, one of the most critical and irreversible decisions a company can make, solely because of a tax break. We need to guarantee them a capable work force, the kind of modern infrastructure that businesses need to compete, a safe neighborhood in which to do business, and we need to do something for the cities that will not be designated among the 125 urban enterprise zones this year, next year, or ever.

There are four programs in this amendment that would receive the money we get by eliminating three loopholes.

One program is very familiar, Job Corps. Every year Job Corps, like Head Start, gets a few million dollars more but still it serves only 2 percent of the Nation's poor youth. A real commitment to Job Corps will provide the kind of work force that enterprise zone businesses and all businesses need to compete. Job Corps works. It has a 70-percent placement rate. People are working after the training.

This amendment provides $1.25 billion over 5 years to permit the Job Corps to build 40 new centers, repair existing centers, and enroll up to 30,000 more young people in the program.

The second program in this amendment is an idea that has been transforming the practice of public safety around the country. It is called community policing. When we fought in Desert Storm, it was not simply because we had firepower and planes and tanks that we prevailed. It was because we had intelligence and knowledge of where to deploy our firepower that we succeeded so gloriously.

Community policing provides the same kind of intelligence and information for an urban police force. Bringing police out of their cars and into the community makes them real partners with families and businesses desperately seeking a safe environment, but it requires an investment because police officers will be spending time preventing crime rather than reacting to crime. The amendment provides $750 million over 5 years for community policing grants such as those in the crime bill.

Third, many businesses interested in relocating to distressed areas will find the crumbling infrastructure of those cities to be a disincentive—crumbling schools, parks, public buildings. At the same time, there are millions of young people without much training who are ready and able to undertake the repairs that would bring their communities into the 1990's.

The Neighborhood Reconstruction Corps will bring them together as partners. Private companies that met their obligation to a community by repairing public buildings, schools and housing projects could receive a Federal match for their investment if they employed a Neighborhood Reconstruction Corps of young high school graduates from the community sponsored by a Community Development Corporation. In turn, the infrastructure improvements would help the company prosper and hire more local residents, while the on-the-job training of the Reconstruction Corps would help the participants compete for their next jobs.

The Conference of Mayors says that there are over 7,000 projects in urban America ready to go. This amendment puts $500 million over 5 years into this new idea that would generate many times that money in jobs and productivity.

Fourth, we need to address Secretary Kemp's very legitimate concern that we are providing capitalism without capital to the urban enterprise zones. To help people become independent, self-sufficient participants in an urban, economic renaissance, we need also to

help people become entrepreneurs and self-employed contractors. The fact is that an African-American is five times more likely to own a business in the wealthy suburbs of Bergen County, NJ, than across the river in the Bronx in New York.

Opportunities exist in our cities but urban residents need the know-how and access to capital that people in the suburbs take for granted. The entrepreneurship and self-employment training grants established by this amendment provide $500 million for community colleges to provide basic business training and for the Small Business Administration to offer low-interest startup loans.

Just as small entrepreneurial business has always fueled our economic growth, these independent entrepreneurial capitalists will generate wave after wave of energy and enthusiasm in the urban economy.

Some of these proposals are old ones that just need more funds. Others are newer.

I know I will hear criticism that we have not had hearings on all of these proposals, that we should have done it on a smaller scale, there should have been demos for newer ideas, but is that not just the point? Instead of confronting the urban economic crisis and pursuing new ideas, this body has spent the last 4 months since the Los Angeles riots trying to figure out how many special interest tax breaks we can shove under the umbrella of an urban response. We could have been exploring all of these ideas, but instead we hauled out an old but untested one, watered it down, and loaded it down with new tax breaks for the wealthiest in our society.

This amendment is a chance to remedy that course. The amendment not only puts real money behind substantial programs but it concentrates them where the need is the greatest, in all of the large and small cities where that need is obvious. It is neither diluted to win support from communities that do not really need help, nor as limited as the enterprise zone provisions. 296 cities would be eligible to take advantage of these initiatives. That is not only more than the urban enterprise zone provision offers, it is even more than the 150 in Secretary Kemp's proposal.

These are the neediest 296 cities, based on a formula that finds cities with the greatest need, which is determined for purposes of the CDBG block grant, and also the least ability to help their own people, as measured by per capita income. The needs adjusted per capita income index is the best measure of urban distress as developed in the House by Representative CHRISTOPHER SHAYS, from Connecticut, and who deserves recognition for this formula.

Mr. President, our budget provides a measure of our Nation's values. I cannot help but wonder what this bill says about our priorities. We would spend nearly as much providing tax breaks to wealthy developers in the bill as we do to enterprise zones.

If the $400 billion budget deficit should do anything, it should show us that we have precious few resources to waste. Every spending program, every tax expenditure must be weighed against alternative investments. The simple fact is that if we choose to spend our resources to provide tax loopholes for narrow interests and specific industries, then we do not have those resources for urban policy.

The amendment that I offer is simple. It cuts $2.7 billion in tax breaks for corporations and the wealthy in order to spend that $2.7 billion on urban economic recovery.

The bill gets the money for this by looking at the $2.1 billion in tax relief provided to real estate developers. The last thing we need to do at this point is to provide more incentives to provide for transparent office buildings.

The problem with the industry is not the Tax Code but the 20-percent vacancy rate and a 20-year supply of excess office space. Because of the tax breaks we threw at the industry in 1981, we built more commercial real estate in the 1980's than was standing in America in 1979, rebuilt more conversion office space in the 1980's in America than existed in the United States in 1979.

What this amendment does with the real estate section is to trim back on the passive loss provision. It would limit the passive loss provision to only those who have made investments prior to 1986 when tax reform was implemented.

The bill also asks that we spend $1.3 billion to provide alternative minimum tax relief to large corporations. This amendment would modify that provision.

I think it is important to remember why the AMT was instituted. It was to get everybody to pay their fair share of tax. But here we have a proposed $1.3 billion leak in the tax base of the alternative minimum tax.

Still, we have all heard about how complicated the alternative minimum tax is. What the amendment would do is to simplify the alternative minimum tax but, by relying on a 120-percent declining balance method rather than a 150-percent declining balance method, would achieve all of the bill's simplification but without the $1.3 billion price tag. We also ensure that the AMT more closely tracks economic income.

The last provision that we deal with is the $343 million to provide section 108 relief to individuals and partnerships holding real property. In other words, yet another tax break for the real estate industry. This little-known provision asks us to step in and bail out taxpayers who make bad bets on real estate deals.

My primary problem with the proposal is that it targets only a narrow class of taxpayers. If I hold a piece of real estate that I use in my trade or business and put that piece of property up as collateral for a loan, I am exposing myself to the risk that the property will go down in value and I will have to put up more collateral.

If I am lucky enough to convince the banks to write down the value of my loan, for example from $2 million to $1 million, then under the current law I recognize that the $1 million is income. That is only fair. I have been freed from the obligation of paying the $1 million. But not under this provision. Under this provision, I can defer that income for up to 40 years. Under this provision, if I happen to have the good fortune to hold valuable property and can get a bank to write down the loan, I am not taxed on that income but can simply reduce the basis of my property. The bottom line is that my income is deferred until I sell the property or until I exhaust the remaining basis.

So, Mr. President, the amendment that I have offered modifies these three provisions, saving $2.7 billion, and invests the $2.7 billion in Job Corps; community policing; entrepreneurial activity in all urban areas, especially enterprise zones; and local infrastructure repair that creates jobs and economic opportunity.

I reserve the remainder of my time.

Mr. BENTSEN. Mr. President, I ask for the yeas and nays on the amendment.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. BENTSEN. Mr. President, I rise in opposition to the amendment of the Senator from New Jersey.

He makes some good points about the problems of the urban areas. I share them. Obviously so, because we modified our piece of legislation by adding another $3 billion to try to address some of the more serious problems in the urban areas: To do what we could to see that they work, that they are effective, that we create jobs, that we lower the cost of business in those areas, and so on.

We have crafted what I think is a bipartisan piece of legislation. We have worked very hard at that. The reason is that I want to see it enacted. We passed a bill in March that was vetoed. If we are going to accomplish anything, we have to see that this bill is signed.

So let us get to this question of passive losses. There is no question but what you had before 1986 was people building buildings for tax reasons—not for economic reasons. We saw it across the country. I saw it in my own State, the State of Texas, where there was a prime example of that: see-through buildings developing in Houston and Dallas and some of the smaller cities.

Then we began to see it creeping across the rest of the country—buildings standing vacant. It had to be changed. What you had was lawyers, doctors, bankers—everyone—having tax shelters. You had limited partnerships that were not really involved in the real estate business, with equity interests farmed out to investors so that they could take advantage of the accelerated depreciation.

So the Finance Committee changed that. However, as often happens in that type of corrective legislation, there was an overreaction. It went beyond the degree necessary. What was done to real estate people—people that are really in the business—was to not allow them to take their losses and their winnings and put them together to get their net income. They were not allowed to do some of the things that other business people can do with respect to their businesses.

So that is what this piece of legislation is about. We did not bring back the tax shelters for all of those outside investors that are not truly in the real estate business. This is a carefully crafted piece of legislation to give some justice to the real estate business—to put it on the same basis as other businesses. Hopefully, too, it will be a help in real estate values: that we will get more interest back in real estate and that we can cut down some of the losses in the savings and loans and the enormous bailout that is punishing the taxpayers.

So we have taken care of that in the underlying legislation. What my friend from New Jersey would do would go beyond that.

Another carefully crafted portion of the bill that is subject to the Senator's amendment is the provision that eliminates the ACE adjustment for depreciation in the alternative minimum taxes. This is another proposal that was included in the President's budget; and it was also included in our March tax bill. That provision does two things. First, it reduces the dampening effect that the ACE depreciation adjustment can have on capital investment, particularly investment by capital-intensive industries experiencing depressed earnings. Second, it provides significant simplification to those taxpayers who now have to maintain two sets of complicated books in the minimum tax.

The other provision at issue in the bill allows certain owners of business real estate to reduce the basis of qualifying assets rather than recognizing cancellation of indebtedness income currently—thereby allowing them to avoid insolvency, or even bankruptcy.

That provision is fully paid for by other real estate changes. What we are trying to do is stop forcing people into bankruptcy when workouts can be achieved.

So, Mr. President, I want to see this legislation enacted. I am working at the present time on other parts of the bill with people from both sides of the aisle. Again, I must point out that these provisions have been supported by Senators on both sides of the aisle.

I am hopeful that if we can keep from damaging the consensus we have achieved, we will have legislation that becomes law.

I yield the floor.

Mr. WELLSTONE. Mr. President, let me, first of all, say to the distinguished chairman of the Finance Committee that I appreciate much of the work that he has done on what is now called the Revenue Act of 1992. This is a vast piece of legislation, in part because it deals with really important changes in the Tax Code.

But, Mr. President, the reason that I support this amendment—and I am proud to introduce this amendment with Senator BRADLEY—is that it has to do with priorities and what, once upon a time, we used to call the urban aid bill, because it was a piece of legislation which was born in response to the desperation in our cities—as exhibited, powerfully exhibited, by what happened in Los Angeles—really has changed and evolved into a very different kind of legislation.

Mr. President, when I read the editorial in the Washington Post—and it is not really my intention to be so critical as the talk about what is so positive about this amendment that we have introduced—it was disappointing to see the headline: "Tax Legislation Gains New Life; Senate Takes Up $31 Billion Bill Full of Provisions for Interest Groups."

It is good that we have come up with $31 billion. I know there are good provisions in here on foster care and welfare reform, and I know that the chairman of the Finance Committee has worked very hard.

But, Mr. President, all of us who have talked to other Senators on appropriations committees know how hard it is to find the funding for key programs that have everything in the world to do with helping people. If we want to build our cities, then we have to be about helping people in our cities. So when we go to chairs of Appropriations Committees and subcommittees, and talk about more funding for education, or talk about more funding for housing, or more funding for emergency shelter assistance, we find that the resources are not there.

Mr. President, part of this bill has an emphasis on enterprise zones. I do not think today that I have the time to raise some of the questions that I would raise about those zones. Only to say that, as a matter of fact, when you think about the magnitude of the problem in our cities, really, 150 entire cities would qualify for assistance. And, of course, we are just barely down the road of beginning to provide that assistance.

Mr. President, my main point is a little different. I think that the Bradley-Wellstone amendment really gets down to the issue of some priorities. I want to talk about some of these programs, such as the Job Corps Program, that Senator BRADLEY spoke about. We have a program in Minnesota called the Hubert H. Humphrey Job Corps Program. It is an intensive, individualized employment and training program.

I met with men and women involved in the HHH Program. They came out here to Washington, DC. As a matter of fact, on the Minnesota Academics Olympics team, HHH Center men and women were nationally prominent. It was wonderful to see how this program worked. It gave men and women real opportunities. This is a program that has been very successful.

If we want to focus on job opportunities, I do not think it is asking too much to shift just a little bit of resources away from tax breaks for larger corporations and wealthy people to the Job Corps Program. That is what we should be about.

This is a small amount of money we are shifting. But if we really want this to be an urban aid bill as well, I think we ought to put resources into programs that have a proven record. This is one of those programs.

I talked to Mayor Frasier of Minneapolis, who was a distinguished Member of the House of Representatives. He talked about the community policing program called Safe in Minneapolis. It is successful in building trust between the police and people in the community, and in making sure police do not travel in sealed units, hermetically sealed units, as opposed to being out in the community with people and reaching out and working with members of gangs. It has been extremely successful.

The problem is there are not enough resources. Again, what we are talking about, Mr. President, is transferring some resources, some tax breaks, away from people who are well off—doing fine, really—to our cities, with a special focus on a program that has worked.

Senator BRADLEY talked about the Neighborhood Reconstruction Corps Program. If we want to talk about infrastructure, I have to say, as a former teacher, we should understand—I look at the pages, who are probably all in school—that there are students who are going to schools that you would not want to spend more than an hour in, the physical structure is in such disrepair.

I do not think it is asking too much, if we want this to be an urban aid piece of legislation, to transfer some resources to this kind of public infrastructure. Moreover, I am so pleased that we are utilizing community development corporations.

I met, Mr. President, not too long ago—I know you have a very strong in-

terest in small business—with the Minneapolis Consortium of Nonprofit Developers. Included were a number of different community development corporations.

You talk about empowerment and entrepreneurship; you talk about the Microloan Program; and you talk about encouraging African-Americans and other people that live in our innercity communities to develop their own businesses, to have that kind of hope, to contribute to their communities and businesses that are locally owned in those communities. Those community development corporations have a track record that is so impressive.

So, Mr. President, if you look at some of the different programs that Senator BRADLEY and I are talking about, if you look at this shift of resources, I believe that this is an amendment that strengthens this piece of legislation.

I am not going to go into a complete statement. But I want to make it very clear that I really believe this amendment really improves this bill. I think this amendment does not take a large amount of resources; but it takes $2.7 billion. It transfers those resources from some tax breaks that go to wealthy individuals and larger corporations, and instead focuses those resources into our neighborhoods, into our cities, into programs that have a track record of tremendous success.

Mr. President, I really believe that a vote on this amendment is a vote on priorities. We said we were concerned about what happened in Los Angeles. We say on the floor of the Senate that we care fiercely about what is happening in our cities. We say on the floor of the Senate that we want to build hope in people. And we say that we want this bill to be part of providing aid to our cities.

If so, I think we can shift some of the priorities in this legislation. And I believe this amendment that Senator BRADLEY and I have introduced does so in a very credible way, and in a very reasonable way.

I hope our colleagues will support us.

Mr. BENTSEN. Mr. President, I have only recently seen this amendment. And after having a chance to study it in further detail, I would point out that the Senator's increase in spending in his amendment violates the budget agreement. It tries to exempt any appropriations that later result from the authorizations in this bill from the domestic appropriations cap.

Of course, it is a 60-vote point of order regarding this violation of the budget agreement. In view of that violation, I will raise that 60-vote point of order shortly.

In the meantime, I yield 6 minutes to the distinguished Senator from California.

The PRESIDING OFFICER. The Senator from California is recognized for 6 minutes.

Mr. SEYMOUR. I thank the Chair, and I thank the distinguished senior Senator from Texas.

Mr. President, I think we need to refocus. We have lost our focus here. We need to concentrate on the original goal. This bill is about reintroducing jobs and opportunity in our urban areas.

My colleague from New Jersey and also my colleague from Minnesota have mentioned the city of Los Angeles and the horrible tragedy and riots that occurred there and their answer to it. What is proposed in this amendment—and I think it is wrong—but what is proposed in this amendment is the classic argument of who is best equipped to provide jobs and opportunities, a chance to enjoy the American dream, a piece of the action.

What Senator BRADLEY and Senator WELLSTONE would do—and the programs they are talking about are good programs: the Job Corps Program, community-based policing programs, infrastructure repairs, whether it be schools or housing in those neighborhoods—all good programs. If those programs were being brought up in a different bill, I would be the first to stand here and support them.

But that is not what is happening, and that is why we need to refocus. What we are talking about here is jobs that are going to ring cash registers, jobs where spending will occur, where consumer optimism will return, where opportunities to move from unemployment to full employment can best exist.

Somehow, the Senator from New Jersey and the Senator from Minnesota equate passive losses as a tax break for the rich. Let me tell you, Mr. President, they are not tax breaks for the rich.

In fact, I found most interesting the argument that these passive tax losses, as they are called, resulted in an oversupply, and an overbuilding of office buildings. I find that ironic, because if these tax breaks for the rich do not work, how do they line the pockets of the rich.

Well, if that is true, Mr. President, then how did we, in fact, double, as Senator BRADLEY pointed out—and he is absolutely right—how did we double the square footage of commercial buildings in this country in the last decade? And is that all bad? It is bad that we have such a large percentage of them vacant.

I can trace that problem back to the 1986 Tax Reform Act. The 1986 Tax Reform Act changed the rules, unfortunately, Mr. President, changed the rules in the middle of the game. The game had already been started. Buildings were being built, carpenters were hauling lumber, concrete contractors were pouring concrete. Buildings were being filled with people in the full-employment process of gaining jobs and opportunities. Carpet people were able to sell their carpets, lighting fixture people were able to sell their fixtures, and plumbers were fully employed, as well. Those are the people helped by this growth initiative, not the rich people.

But in 1986 the game changed in the 1986 Tax Reform Act—which I described back in 1988 as a tax shift and a tax shaft. We know how investments are made in this country, and anybody that spends some time in business knows that investment decisions are made based upon yield considerations and return on capital. And many investors made that kind of decision prior to 1986. And since 1986, they have done the same.

The argument that these are just tax breaks for the rich is wrong. The argument that enterprise zones is not enough is wrong. Enterprise zones, in fact, will provide the tax incentives to create a yield that will spur investment.

I have heard it said what we need to do is paint cities like Los Angeles green—green with capital and money, green with opportunities for those that live there, and create business opportunities to employ the unemployed.

So this argument is about philosophy. And it is a classic argument. Can you do it better by having the Federal Government create a Federal program to create jobs, or can the private sector better stimulate the economy by their knowledge of knowing what niche in the market needs to be filled?

I think it would be a serious mistake to pass this amendment, well-meaning as it might be. I do not think it brings balance to the bill. I think it further waters down 800 pages of the bill until there is little or nothing left. And then we will come back in 1993 to debate why that program did not work and we will try another.

So I ask my colleagues to closely review this amendment and understand not only what this amendment does, but also how important it is, Mr. President, that we provide every tool to the private sector possible to invite them into urban areas like south central Los Angeles; so they can invest their capital to hire people who live in that area and watch the free enterprise system work and bring us back to economic vitality.

I yield back the remainder of my time.

Mr. BENTSEN. Mr. President, I yield 5 minutes to the distinguished Senator from Arkansas.

The PRESIDING OFFICER. The Senator from Arkansas is recognized for 5 minutes.

Mr. PRYOR. Mr. President, I thank the Chair and I thank the distinguished chairman for yielding 5 minutes to me. I will try to be very brief.

LEGISLATION TO REFORM THE TAX TREATMENT OF DISCHARGE OF INDEBTEDNESS AND TO INCREASE COMPLIANCE FOR DISCHARGE OF INDEBTEDNESS TRANSACTIONS

Mr. President, many regions of this country are experiencing a decline in real estate values unprecedented since the Great Depression. This drop in real property values has meant ruin for many individual investors, and has endangered financial institutions around the country. As a result of this crisis, real estate financing and liquidity are virtually nonexistent.

More and more owners of rental real estate are struggling to come to grips with the inability of their properties to support the debt tied to those properties. These individuals are faced with the choice of foreclosure, deeding the property back to the lender, or, if they are more fortunate, restructuring the debt on the property to more accurately reflect the properties' ability to service the debt.

Unfortunately, for solvent property owners restructuring real property debt produces taxable income, but not the cash to cover the taxes. Because there is no cash on hand to pay the taxes, property owners often must sell other properties at distressed prices in order to cover their tax bill for the restructured property. These distressed sales only exacerbate the crisis in real estate values, and increase the pressure on financial institutions by making loan workouts more difficult to achieve.

Before the Tax Reform Act of 1986, the Tax Code better reflected the economic realties of restructuring arrangements. Since discharge of real property indebtedness produces only phantom income for solvent owners, pre-1986 law allowed owners to lower the basis in real property to the extent of the discharge of indebtedness. This allowed owners to defer the payment of tax until there was cash to pay the taxes from the sale of the property. The Tax Reform Act of 1986 repealed this treatment for all taxpayers except for bankrupt or insolvent taxpayers and farm property.

Committee report language indicates that Congress exempted farm property because of the existence of a serious credit and liquidity crisis for farm owners. A similar crisis now exists in our national real estate market. I, therefore, believe that it is time that we reinstate the election to reduce the basis of depreciable property in lieu of immediate tax liability in cases involving the discharge of real property. My bill would reinstate this treatment for individual taxpayers.

For example, an individual taxpayer owns an office building and an apartment building. The office building has a tax basis of $30,000 and the apartment building has a mortgage of $100,000. The apartment building, through no fault of the owner, has declined in value and the rental income from the property now services a debt of only $75,000. The lender, facing a foreclosing situation, reduces the mortgage to $75,000. Instead of forcing the taxpayer to find the necessary cash to satisfy tax on $25,000, usually through the distress sale of other property, my legislation would allow the taxpayer to defer the tax liability by reducing the office building's basis to $5,000.

I urge my colleagues to join with me in sponsoring this important legislation. Mr. President, I ask unanimous consent that a copy of the bill appear in the appropriate place in the RECORD.

Mr. President, approximately 2½ weeks ago I introduced in the Senate a measure that became S. 3080. The chairman of the Senate Finance Committee, Senator BENTSEN, in his wisdom, included S. 3080 in the chairman's markup, in the bill that we now have before us, H.R. 11.

Mr. President, what the Senator from New Jersey is doing, as I understand his amendment, is striking all or at least most all of the real estate provisions and real estate treatment provisions under the Tax Code from H.R. 11. That is my understanding of the amendment. I hope I am stating that correctly. That would include striking the provisions of S. 3080, which is now a part of H.R. 11.

Mr. President, the concept of S. 3080 was to prevent having a taxpayer who owned property where it had deflated, for no reason of his making whatsoever, and where the taxpayer was being charged with phantom income on overinflated property. I think this is an egregious part of the post 1986-tax law dealing with phantom income. My provision will strengthen the individual taxpayer's position as he or she faces tax consequences as a result of income that he or she is actually not receiving.

For example, an individual taxpayer owning an office building or an apartment building, the office building which has a tax basis, let us say, of $30,000. The apartment building has a mortgage of $100,000. The apartment building, through no fault of the owner, has declined in value. The rental income from the property now services a debt of only $75,000. The lender, facing a foreclosure situation, reduces the mortgage to $75,000. And instead of forcing the taxpayer to find the necessary cash to satisfy a tax on $25,000—usually this takes place during a distress sale of other property—this legislation, S. 3080, that is going to be stricken should the Bradley amendment pass, would allow the taxpayer to defer the tax liability by reducing the office building's tax basis to $5,000.

We think it is a sound concept. We think it is good tax policy. Once again, it was introduced to protect the property owner from phantom income taxes and we think it is very fair. We feel very strongly if the Bradley amendment strikes this provision—which it would if it is agreed to—it would have a very, very detrimental effect on a lot of individuals owning property—especially small property owners, I might add.

I strongly oppose the amendment of the Senator, and I hope my colleagues will also join me in opposing the amendment offered by the Senator from New Jersey.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from New Jersey.

Mr. BRADLEY. Mr. President, let us keep in mind that this is a bill that is supposed to address the problems of urban America. It is a bill that raises taxes by nearly $30 billion. Somebody had their taxes increased $30 billion. And the question is, what do you want to do with the $30 billion in this bill from the increases in taxes?

Do you want to take that $30 billion and give it to very large corporations, allowing them to write off certain equipment faster? Do you want $30 billion given to large real estate developers so they will build more office space?

Or do you want part of that $30 billion to go directly to those people who are in the eye of the storm in urban America? Do you want part of that $30 billion to go to increasing the Job Corps, to assuring that we have money for community policing that will secure our streets, to encouraging entrepreneurship and self-employment in urban areas in America by providing training and loan guarantees for start-up loans in small businesses, or do you want that money to go to Neighborhood Reconstruction Corps, to improve public works in the area?

How do the American people want that $30 billion to be spent? Do they want it, really, to be spent by channeling it into the pockets of the large corporations so they can buy more and different equipment? Do they want it to be channeled into the pockets of real estate developers so they will build more office space? Or do they want, in an urban aid bill, to have that money channeled directly to where the need is and in the areas the need exists?

Some opponents of this bill have said if this came up in a different circumstance they would be for these provisions. At the same time, they have asserted the only way to deal with the problems of urban America is through the private sector.

Those two positions are contradictory. I believe the best answer is to take the best of the conservative agenda and the best of the liberal agenda and make it an American agenda. And there is only a certain amount of money around to do that, and this amendment says if we are raising $30 billion in taxes on so many groups in America, let us take at least a third of that and put it back into urban America.

I reserve the remainder of my time.

Mr. President, how much time do I have?

The PRESIDING OFFICER. The Senator has just under 5 minutes.

The Senator from Minnesota.

Mr. WELLSTONE. If I could just add to the words of the Senator from New Jersey, I really feel like the vote on this amendment, whether it be for it—maybe it will just end up being a vote on procedure—is a test case on representation. What I really worry about with this bill is that we used to talk about an urban aid bill. We said, rhetorically, we were going to respond to the cities. But if you do an analysis of the benefits and where the benefits go, what you find is corporate America and wealthy people do fine, but we really have not invested very much in our cities.

What we have tried to do with this amendment is effect a small transfer of resources. And the reason I think this is a test case of representation is there is no doubt in my mind that the vast majority of people in our country would say put it into a Job Corps Program, put it into a community police program, put it into a neighborhood reconstruct corps program, put it into a community development corporation—as opposed to putting it into wealthy America.

There is no doubt in my mind whatsoever—and that is why I want to talk for just 20 more seconds about political representation—that the men and women that live in our cities, many of whom have tremendous indignation that they are not represented by Government and not represented in Washington, DC, are going to draw entirely, I fear, very bitter lessons about this. Which is, once again—those of us who live in these communities in the cities, do not have all the economic resources. We do not have all those special-interest lobbyists. We do not have all that clout. And, once again we are severely underrepresented. There has not been a response to the concerns and circumstances of our lives.

This amendment, this small transfer of resources, is a very positive message and I think we should send it to the people in our cities.

Mr. BENTSEN. Mr. President, I yield 5 minutes to the distinguished Senator from Arkansas.

Mr. PRYOR. Mr. President, once again I thank the distinguished chairman for giving me an opportunity to answer and perhaps even engage in a moment of colloquy with my colleague from Minnesota, and perhaps even my colleague from New Jersey, the author of this amendment, which strikes a very, very critical provision from H.R. 11.

They are talking about corporate real estate companies—I am quoting my friend from Minnesota—I believe I am quoting him correctly—"Corporate America and wealthy people are doing fine."

I would say to my colleague and friend from Minnesota, and to my friend from New Jersey who talks about corporations doing real well under H.R. 11, what they are trying to strike here is something that is going to help protect the individual property owner. S. 3080 does not apply to corporations. It only applies, only enables the individual real estate owner, now desperately cash short and seriously weakened financially, to defer the tax liability until that real property is sold.

What we have today in our country, and I feel relatively certain it is happening in Minnesota and in New Jersey—I know it is happening in the State of Arkansas—we are finding these individual owners of, say a small apartment building, and they are having to pay on money they are not receiving because of phantom income. It is not fair. Therefore, they are now dumping additional properties on an already weakened real estate market to pay taxes on debt restructuring transactions. It is unduly burdening the banking and financial system.

I think Chairman BENTSEN and the distinguished members of the Finance Committee are very correct in trying to protect this particular provision, which protects the individual real estate owner—not the big corporate companies—but the individual real estate owner from having to pay taxes on income never received.

Mr. President, I do not believe I——

Mr. BRADLEY. Will the Senator yield so I may respond?

Mr. PRYOR. Yes, I will be glad to.

Mr. BRADLEY. Mr. President, let me say in response to the Senator's question, this bill does provide, through section 108, I believe, some tax relief the Senator has described, to some small limited partners who own small real estate holdings. There is no question about that.

The question is why should that industry now receive that kind of benefit, when any other industry does not get it—first point—other than farming? And the second point is, this bill also burdens that small real estate operator by increasing the depreciable life from 30 years to 40 years.

So on the one hand this bill gives something. The law already provides the same 108 benefit to investors who are insolvent. This now gives it to those who are solvent. So it does give something, a little benefit. All of the taxpayers in America get 300 million dollars' worth of benefit, which if you look at what else is in this bill, out of $30 billion, $300 million in benefits is not a whole lot. But this bill also takes from those very taxpayers by increasing the depreciable life of assets by 10 years—by one-third.

So that the mom and pop who invested in the small two, three, four, five apartment building, whatever, and thought they would have the 30 years to write off now has 40 years, which means they cannot write off as much, which means they pay more taxes.

So the Senator is correct, in one part of this bill, what is it, 1 percent of the total value, part of that 1 percent will go to some smaller operators, but with the other hand, you take much more away from them by decreasing the appreciable life of the asset.

Mr. PRYOR. Mr. President, I will simply respond by saying in most sections of our country today, the greatest difficulty we have in securing credit and financial liquidity is in financing real estate or refinancing real estate. We are having a very difficult time in this market right now, and we are not here to ask that taxes be foregone, we are not here asking that taxes not be paid or not owed, but we are saying that taxes should not be paid until the income is derived from the property. That is the spirit of S. 3080. I think it is a reasonable and fair approach, and I hope my colleagues will think it is a reasonable approach. In all due respect, I do not have a better friend than the Senator from New Jersey. I do, however, hope his amendment will be defeated.

The PRESIDING OFFICER. Who yields time?

Mr. BRADLEY. Mr. President, how much time remains?

The PRESIDING OFFICER. The Senator from Texas has 7 minutes. The Senator from New Jersey has 2 minutes and 10 seconds.

Do Senators yield back their time?

Mr. BRADLEY. Mr. President, I will be prepared to yield back the remainder of my time, with 1 concluding minute.

Mr. BENTSEN. Mr. President, I am awaiting the arrival of another Senator who would like to speak on it. So I suggest the absence of a quorum and ask unanimous consent that the time be equally charged to both sides.

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

The clerk will call the roll.

The assistant legislative 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 yield my time. Am I the only one having any time left?

The PRESIDING OFFICER. The Senator is correct.

Mr. BENTSEN. I yield half that time, a full minute and a half, to my friend from New Jersey.

The PRESIDING OFFICER. The Senator from New Jersey is recognized for 1 minute and 20 seconds.

Mr. BRADLEY. Mr. President, often around here we say we do not have

enough money to do this, but here we raised $30 billion. We have $30 billion. What do we want to do with it? I am suggesting we take $2.7 billion of that $30 billion that we have now, not next year, it is now, $2.7 billion of that to use it for four very important programs in urban America that will increase the life chances of thousands and thousands of Americans now living with diminishing life chances.

That is what this amendment is all about—increased funding for Job Corps, Community Policing, entrepreneurship and self-improvement, Neighborhood Reconstruction Corps, and get the money from, $2.7 billion in increased taxes that this bill already raises on American families and individuals.

Mr. BENTSEN. Mr. President, I yield the remainder of my time to the Senator from Oklahoma.

The PRESIDING OFFICER. The Senator from Oklahoma is recognized for 1 minute 30 seconds.

Mr. BOREN. Mr. President, I thank the distinguished chairman for yielding me the time that is remaining. I will try to speak very briefly.

It would be a serious mistake for us to pass this amendment. We all want to help the urban areas. All of us have been working on programs that would be of help. But the way to help them is not put Americans out of work, to make us less competitive in the world.

The AMT has been working in the way it was not intended because of the recession, particularly because of the way the depreciation adjustments under the AMT have operated during the recession. We are therefore already at a competitive disadvantage: The cost of capital is much higher in the United States.

Recent statistics indicate that because of the AMT, our companies that invest in new plant and equipment, new means of production, are recovering less than half the average of our competitors in the first 5 years that investment is made.

Twenty-five percent of the companies paying tax under AMT reported both a book loss and a taxable income loss this last year. Because of the ACE depreciation provision, as incomes go down in the recession, companies are more and more penalized under the Tax Code for making the very investments that are necessary to make them competitive. They are being penalized and forced to pay the alternative minimum tax because of the fact that they are keeping up a high level of investment during a downturn. This means that while there are actually some companies losing money, they are having to pay alternative minimum tax because they are doing what we have told them to do—invest in job creation in this country, invest in technology to make us competitive, to keep our people at work.

Yes, let us try to do something about the urban crisis. We are all trying to do something about it. Let us do not do it in a way that is going to put more Americans out of work, seal the doors of more American companies, put us out of business in the international marketplace. Let us not do it in a way that will take away the tax provision which Senator PRYOR and I sponsored to allow some businesses to get reorganized so they can stay in business instead of being forced into bankruptcy, with more and more assets out on the market causing more and more failures of financial institutions.

Mr. President, if this amendment passes, it will have very serious economic repercussions in this country. It will make matters worse. It should be resisted by the Senate.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. DURENBERGER. Mr. President, this is the second amendment that has been discussed on the Senate floor today that suggests a new and dangerous trend is evolving in the U.S. Senate.

When this fiscal year ends on September 30, the 1992 budget deficit is going to come in at about $400 billion. And before this year is over, we will certainly be more than $4 trillion in debt—$4 trillion.

And what are we doing here today? We have proposals to shift revenues from changing the Tax Code in the future and assigning revenue value based on uncertain and unpredictable revenue estimates of future behavior developed by the Joint Committee on Taxation. Once the joint committee runs its econometric model, it predicts a revenue loss or a revenue gain. But that is only a prediction based on an econometric model.

What the authors of this amendment do with this estimated revenue is to shift it into a direct spending program—a program that would ordinarily be subject to a direct appropriation.

Mr. President, no wonder the public appears so angry. We use budget gimmicks and accounting tricks to create phantom money. We are already living off of debt; now some Members of this body want to use phantom money to pay for real programs.

What happens if the revenue estimators were wrong? What happens if striking the real estate provisions in this bill does not raise $1 billion. Will we just add more debt to make up the shortfall?

Mr. President, there are worthy programs that we should spend money on. But let's cut real spending and let's cut the deficit before we decide we have to spend more and more on Federal programs.

The bankrupting of America must cease.

Mr. BENTSEN. Mr. President, I raise a point of order that the pending amendment violates Section 306 of the Congressional Budget Act of 1974.

Mr. BRADLEY addressed the Chair.

The PRESIDING OFFICER. The Senator from New Jersey.

Mr. BRADLEY. I move to waive any points of order that would block consideration of this amendment, any points of order made under the Budget Act.

I ask for the yeas and nays.

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.

The PRESIDING OFFICER. The question is on agreeing to the motion to waive the Budget Act.

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 North Dakota [Mr. BURDICK], the Senator from Tennessee [Mr. GORE], and the Senator from Michigan [Mr. LEVIN] are necessarily absent.

Mr. SIMPSON. I announce that the Senator from Oregon [Mr. HATFIELD] and the Senator from Oklahoma [Mr. NICKLES] 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] and the Senator from North Carolina [Mr. HELMS] would vote "nay."

The yeas and nays resulted—yeas 14, nays 80, as follows:

[Rollcall Vote No. 189 Leg.]

YEAS—14

Biden	Kennedy	Simon
Bradley	Lautenberg	Specter
Chafee	Metzenbaum	Wellstone
Cranston	Robb	Wirth
Harkin	Sarbanes	

NAYS—80

Adams	Exon	Mikulski
Akaka	Ford	Mitchell
Baucus	Fowler	Moynihan
Bentsen	Garn	Murkowski
Bingaman	Glenn	Nunn
Bond	Gorton	Packwood
Boren	Graham	Pell
Breaux	Gramm	Pressler
Brown	Grassley	Pryor
Bryan	Hatch	Reid
Bumpers	Heflin	Riegle
Burns	Hollings	Rockefeller
Byrd	Inouye	Roth
Coats	Jeffords	Rudman
Cochran	Johnston	Sanford
Cohen	Kassebaum	Sasser
Conrad	Kasten	Seymour
Craig	Kerrey	Shelby
D'Amato	Kerry	Simpson
Danforth	Kohl	Smith
Daschle	Leahy	Stevens
DeConcini	Lieberman	Symms
Dixon	Lott	Thurmond
Dodd	Lugar	Wallop
Dole	Mack	Warner
Domenici	McCain	Wofford
Durenberger	McConnell	

NOT VOTING—6

Burdick	Hatfield	Levin
Gore	Helms	Nickles

The PRESIDING OFFICER. Three-fifths of the Senators duly chosen and sworn not having voted in the affirmative, the motion is not agreed to.

Mr. BENTSEN. Mr. President, I move to reconsider the vote.

Mr. FORD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The amendment contains subject matter that is within the jurisdiction of the Budget Committee. Since the amendment has been offered to a bill that was not reported by the Budget Committee, the point of order is sustained and the amendment falls.

Mr. DOLE addressed the Chair.

The PRESIDING OFFICER. The Republican leader.

AMENDMENT NO. 2934, AS MODIFIED

Mr. DOLE. I send to the desk a modification of the pending second-degree amendment I offered on behalf of Senator PACKWOOD. I send this modification on behalf of Senator PACKWOOD.

The PRESIDING OFFICER. The Senator has a right to modify the amendment.

The amendment is so modified.

The amendment (No. 2934), as modified, is as follows:

At the end of the amendment, add the following:

At the appropriate place insert:

SUBPART D—FIRST-TIME HOMEBUYER CREDIT

SEC. 2141. CREDIT FOR PURCHASE OF PRINCIPAL RESIDENCE BY FIRST-TIME HOMEBUYER.

(A) IN GENERAL.—Subpart A of part IV of subchapter A of chapter 1 (relating to nonrefundable personal credits) is amended by inserting after section 22 the following new section:

"SEC. 23. PURCHASE OF PRINCIPAL RESIDENCE BY FIRST-TIME HOMEBUYER.

"(a) ALLOWANCE OF CREDIT.—In the case of a first-time homebuyer, there shall be allowed as a credit against the tax imposed by this chapter an amount equal to 10 percent of the purchase price of the first principal residence purchased by the taxpayer during the eligibility period. Except as otherwise provided in this section, such credit shall be allowed for the taxable year in which such residence is purchased.

"(b) LIMITATIONS.—

"(1) MAXIMUM OVERALL CREDIT.—The credit allowed by subsection (a) to the taxpayer shall not exceed $2,500.

"(2) MAXIMUM FIRST YEAR CREDIT.—Of the aggregate credit allowable under subsection (a) after the application of paragraph (1)—

"(A) not more than 50 percent shall be allowed for the taxable year in which the residence is purchased, and

"(B) the remaining credit shall be allowable for the succeeding taxable year.

"(c) FIRST-TIME HOMEBUYER.—For purposes of this section—

"(1) IN GENERAL.—The term 'first-time home-buyer' means any individual unless such individual or such individual's spouse had a present ownership interest in any principal residence at any time during the 3-year period ending on the date of the purchase of the residence referred to in subsection (a).

"(2) UNMARRIED JOINT OWNERS.—An individual shall not be treated as a first-time homebuyer with respect to any residence unless all the individuals purchasing such residence with such individual are first-time homebuyers.

"(3) ALLOCATION OF LIMITS.—All individuals purchasing a residence shall be treated as 1 individual for purposes of determining the maximum credit under subsection (a), and such maximum credit shall be allocated among such individuals under regulations prescribed by the Secretary.

"(4) CERTAIN INDIVIDUALS INELIGIBLE.—The term 'first-time homebuyer' shall not include any individual if, on the date of the purchase of the residence, the period of time specified in section 1034(a) is suspended under subsection (a)(6), (h), or (k) of section 1034 with respect to such individual.

"(5) SPECIAL RULE FOR CERTAIN CONTRACTS OF DEED.—In the case of an individual described in section 143(i)(1)(C) for any year, an ownership interest shall not include a contract of deed described in such action.

"(d) OTHER DEFINITIONS.—For purposes of this section—

"(1) ELIGIBILITY PERIOD.—

"(A) IN GENERAL.—The term 'eligibility period' means the period beginning after July 27, 1992, and ending before January 1, 1993.

"(B) BINDING CONTRACTS.—A residence shall be treated as purchased during the eligibility period if—

"(i) during the eligibility period, the purchaser enters into a binding contract to purchase the residence, and

"(ii) the purchaser purchases and occupies the residence before April 1, 1993.

For purposes of clause (i), a contract shall not fail to be treated as binding merely because it is contingent on financing or on the condition of the residence.

"(2) PURCHASE.—The term 'purchase' means any acquisition of property, but only if—

"(A) the property is not acquired from a person whose relationship to the person acquiring it would result in the disallowance of losses under section 267 or 707(b), and

"(B) the basis of the property in the hands of the person acquiring it is not determined—

"(i) in whole or in party by reference to the adjusted basis of such property in the hands of the person from whom acquired, or

"(ii) under section 1014(a) (relating to property acquired from a decedent).

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

"(4) PURCHASE PRICE.—The term 'purchase price' means the adjusted basis of the residence on the date of its acquisition.

"(e) CARRYOVER OF UNUSED CREDIT.—

"(1) IN GENERAL.—If—

"(A) the credit allowable under subsection (a) exceeds

"(B) the limitation imposed by section 26(a) reduced by the sum of the credits allowable under sections 21 an 22,

such excess shall be carried to the succeeding taxable year and shall be allowable under subsection (a) for such succeeding taxable year.

"(2) 5-YEAR LIMIT ON CARRYFORWARD.—No amount may be carried under paragraph (1) to any taxable year after the 5th taxable year after the taxable year in which the residence is purchased.

"(f) RECAPTURE OF CREDIT FOR CERTAIN DISPOSITIONS.—

"(1) IN GENERAL.—Except as provided in paragraphs (2) and (3), if the taxpayer disposes of property with respect to the purchase of which a credit was allowed under subsection (a) and such disposition occurs at any time within 36 months after the date the taxpayer acquired the property as his principal residence, then the tax imposed under this chapter for the taxable year in which the disposition occurs is increased by an amount equal to the amount allowed as a credit for the purchase of such property.

"(2) ACQUISITION OF NEW RESIDENCE.—If, in connection with a disposition described in paragraph (1) and within the applicable period prescribed in section 1034, the taxpayer purchases a new principal residence, then paragraph (1) shall not apply and the tax imposed by this chapter for the taxable year in which the new principal residence is purchased is increased to the extent the amount of the credit that could be claimed under this section on the purchase of the new residence (were such residence the first residence purchased during the eligibility period) is less than the amount of credit claimed by the taxpayer under this section.

"(3) DEATH OF OWNER; CASUALTY LOSS; INVOLUNTARY CONVERSION; ETC.—Paragraph (1) shall not apply to—

"(A) a disposition of a residence made on account of the death of any individual having a legal or equitable interest therein occurring during the 36-month period referred to in paragraph (1),

"(B) a disposition of the old residence if it is substantially or completely destroyed by a casualty described in section 165(c)(3) or compulsorily or involuntarily converted (within the meaning of section 1033(a)), or

"(C) a disposition pursuant to a settlement in a divorce or legal separation proceeding where the residence is sold or the other spouse retains the residence as a principal residence."

(b) CLERICAL AMENDMENT.—The table of sections for subpart A of part IV of subchapter A of chapter 1 is amended by inserting after the item relating to section 22 the following new item:

"Sec. 23. Purchase of principal residence by first-time home-buyer."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years ending on or after July 28, 1992.

Notwithstanding any other provision in this Act, there shall be no requirement for State and local governments to report refunds or payments of real property taxes of State and local governments.

Mr. PACKWOOD addressed the Chair.

The PRESIDING OFFICER. The Senator from Oregon.

Mr. PACKWOOD. Mr. President, let me start by explaining what the second degree amendment does.

It puts back into the bill the $2,500 first-time home buyer tax credit that was dropped when the bill was modified yesterday by Senators MITCHELL and BENTSEN.

To offset the revenue cost of the first-time home buyer credit, the amendment includes a proposal that has been approved by the Senate a couple of times—the disallowance of a deduction for club dues.

I think it is very important that this bill include the first-time home buyer tax credit. Many young families today are finding it more and more difficult

to come up with a downpayment for a home. A $2,500 tax credit will go a long way toward the downpayment on the average starter home.

In my home State of Oregon, the average starter home cost $50,500 in 1991. A $2,500 tax credit would be almost one-half of the required downpayment on that home. And the first-time home buyer tax credit will have a beneficial impact on our economy.

According to the National Association of Home Builders, this credit could: Create up to 240,000 jobs; produce up to 125,000 new housing starts; generate up to 400,000 existing home sales; and it would have an economic ripple effect of as much as $20 billion.

If we do not put it back into the bill before us, the credit will die because the House version of this bill does not contain it.

And I modified the amendment to delete the club dues because there is enough money in the first-degree amendment, as proposed by Senator METZENBAUM, to take care of the issue.

I thank the Chair.

The PRESIDING OFFICER (Mr. BINGAMAN). Is there further debate?

Mr. BENTSEN. Mr. President, I have examined the amendment as it has been changed. I think it is a good compromise.

Certainly, as chairman of the committee, I have long supported credits for first-time home buying. What we were trying to do, of course, was raise the additional money for the enterprise zones, and the additional number of enterprise zones, and finding a way to pay for it.

We have worked out a compromise with the distinguished Senator from Ohio, which I think is a good one, putting a cap on the IRA's.

Overall, I wish to thank the ranking minority member, Senator PACKWOOD, from the State of Oregon, Senator METZENBAUM, and the minority leader and the majority leader for what we have been able to accomplish here.

Mr. PACKWOOD addressed the Chair.

The PRESIDING OFFICER. The Senator from Oregon.

Mr. PACKWOOD. I thank the chairman.

I ask unanimous consent to add Senators DODD, KASTEN, and SEYMOUR as cosponsors of the second-degree amendment.

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

Is there further debate on the amendment?

Mr. SEYMOUR addressed the Chair.

The PRESIDING OFFICER. The Senator from California.

Mr. SEYMOUR. Mr. President, I rise in strong support of this amendment that will achieve the American dream for many first-time home buyers.

I was shocked and appalled yesterday when this most important provision was eliminated from this bill. And I am very pleased, and I give due credit to Senator PACKWOOD, Senator METZENBAUM, and Senator BENTSEN for having reached a compromise to restore this most important provision.

Mr. President, the first-time home buyers tax credit represents not only sound policy in helping young people get a piece of the American dream, but it is also an economic growth stimulator. It will provide immediate economic stimulus, and it will help middle-class American families buy homes.

It has been a proven fact, Mr. President, that housing is a key to any economic recovery. I know that firsthand, Mr. President, having spent 17 years in the housing business.

I well recall, in the year 1980, the last time we had a first-time home buyers tax credit. It was a $2,000 tax credit at that time. I can tell you firsthand, Mr. President, that it works. It not only works in the way of providing the added incentive and the added opportunity for a first-time home buyer to get a piece of the American dream, as we call it—and that is home ownership—but it also acts as a job creator. It rings cash registers in communities. Because out of every sale of a first-time home, new jobs are created.

To give you some idea, Mr. President, of the new jobs that are created in my State of California, for every $1 spent in the new housing market, $2.56 in economic activity is generated. Or, translated a different way, for every $1 million spent in a new home market, 29.6 jobs will be created. In addition, that same $1 million will result in first-time home buyers purchasing their first home from existing stock that will create 22 new jobs.

As a result of the recession in residential real estate and home buying, California's economy lost an estimated $12.1 billion in total direct and indirect economic output in 1991, compared to 1990. The decline in home sales activities has reduced California's gross State product by almost 1 percent. One percent does not sound like much, but when you are California, the seventh largest economy in the world, that represents $7 billion of economic activity.

To put it in yet another way, to describe the economic stimulus that takes place in the housing market, Mr. President, for every four homes that are sold in the State of California, we create approximately 20 new jobs. So this is not only good policy relative to perpetuating the right of private property ownership and home ownership, but it makes good sense from an economic stimulus standpoint.

So, Mr. President, I applaud the efforts of my colleagues, who have worked hard to restore this provision to the bill, and I stand in strong support of it. I yield the floor.

The PRESIDING OFFICER. Is there further debate on the amendment?

Mr. CHAFEE addressed the Chair.

The PRESIDING OFFICER. The Senator from Rhode Island.

Mr. CHAFEE. I wonder if I can ask the floor managers about this amendment. As I understand it, this places a limitation on what IRA's are deductible. The existing law is $25,000 for an individual and $40,000 for a family. This moves it up to what?

Mr. PACKWOOD. $80,000 and $120,000.

Mr. CHAFEE. I am not for that, but we spent a lot of time on that yesterday. But this cap, of course, has now gone with the backholding or the second part of the IRA section that we discussed yesterday, namely, the ability to put in the nondeductible $2,000 and then have all, not only the buildup during the buildup free, but the takeout is tax free. This does not affect that.

Mr. BENTSEN. Oh, it applies to all of it, back loaded and front loaded.

Mr. CHAFEE. Oh, it does? So therefore an individual whose income was in excess of whatever these limits are, 120 did you say, per family?

Mr. BENTSEN. Would have the same kind of limitation.

Mr. CHAFEE. That individual could not put in the—after-tax $2,000?

Mr. BENTSEN. That is correct.

Mr. CHAFEE. But he would still retain the ability, as exists in current law, to put in the after-tax $2,000 and have the buildup tax free, but he could not take it out tax free? That is current law?

Mr. BENTSEN. That is correct. That is current law.

Mr. CHAFEE. We do not change that?

Mr. BENTSEN. I do not see any change on that.

Mr. CHAFEE. But we do say—whatever the family limit—$125,000 did my colleague say?

Mr. METZENBAUM. One hundred twenty.

Mr. BENTSEN. No, 120.

Mr. CHAFEE. That is 120. That anybody over the $120,000 could put in the $2,000 after taxes, can get the tax-free buildup while it is being built up—no income attributed to the individual——

Mr. BENTSEN. That is the present law.

Mr. CHAFEE. But he cannot take it out.

Mr. BENTSEN. Without paying the tax.

Mr. CHAFEE. Without paying the tax.

Mr. BENTSEN. That is correct.

Mr. CHAFEE. I must say that is a vast improvement. That must pick up a lot of revenue.

Mr. BENTSEN. That is the way we pay for the first-time home buyer.

Mr. PACKWOOD. About $2.5 billion.

Mr. CHAFEE. That would have saved us about 4 hours yesterday if somebody had come up with this. Not that it is perfect. I do not want anybody to think it is perfect.

Mr. BENTSEN. I did not expect you to say that, Senator.

Mr. CHAFEE. My leader says it is not even good. Put it this way, it is a fair improvement—fair meaning marginal.

Mr. PACKWOOD. On scale of 1 to 10, where would you put it?

Mr. CHAFEE. Well, on a scale of 1 to 10 I would give it every break in the world and give it a 4.

Mr. PACKWOOD. I will accept that.

Mr. President, could I add further cosponsors, Senators BENTSEN, GRAHAM, LIEBERMAN, HOLLINGS, and WOFFORD.

The PRESIDING OFFICER. Without objection, it is so ordered. They will be added as cosponsors.

Mr. PACKWOOD. I thank the Chair.

The PRESIDING OFFICER. If there be no further debate, the question is on agreeing to the amendment.

The amendment (No. 2934), as modified, was agreed to.

The PRESIDING OFFICER. The Senator from Ohio.

AMENDMENT NO. 2931, AS MODIFIED

Mr. METZENBAUM. Mr. President, I send a modified amendment to the desk with respect to the underlying amendment on behalf of myself and Senator RUDMAN and ask for its immediate consideration.

The PRESIDING OFFICER. Is there objection to the modification of the amendment? If not, the amendment is so modified.

The amendment (No. 2931), as amended, as modified, is as follows:

On page 875, beginning with line 13, strike through page 885, line 16, and insert:

Subpart A—IRA Deduction

SEC. 2001. INCREASE IN INCOME LIMITATIONS.

(a) IN GENERAL.—Subparagraph (B) of section 219(g)(3) is amended—

(1) by striking "$40,000" in clause (i) and inserting "$120,000", and

(2) by striking "$25,000" in clause (ii) and inserting "$80,000".

(b) INFLATION ADJUSTMENT.—Section 219(g)(3) is amended by adding at the end the following new subparagraph:

"(C) INFLATION ADJUSTMENT.—In the case of any taxable year beginning after 1993, each dollar amount referred to in subparagraph (B) 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, except that subparagraph (B) of subsection (1)(f)(3) shall be applied by substituting '1992' for '1989'."

(c) IRA ALLOWED FOR SPOUSES WHO ARE NOT ACTIVE PLAN PARTICIPANTS.—Section 219(g)(1) is amended by striking "or the individual's spouse".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1993.

SEC. 2002. INFLATION ADJUSTMENT FOR DEDUCTIBLE AMOUNT.

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

"(h) COST-OF-LIVING ADJUSTMENTS.—

"(1) IN GENERAL.—If the cost-of-living amount for any calendar year is equal to or greater than $500, then each applicable dollar amount (as previously adjusted under this subsection) for any taxable year beginning in any subsequent calendar year shall be increased by $500.

"(2) COST-OF-LIVING AMOUNT.—The cost-of-living amount for any calendar year is the excess (if any) of—

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

"(B) the applicable dollar amount in effect under subsection (b)(1)(A) for taxable years beginning in such calendar year.

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

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

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

"(ii) the CPI for 1991.

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

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

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

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

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

(b) CONFORMING AMENDMENTS.—

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

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

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

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1993.

SEC. 2003. COORDINATION OF IRA DEDUCTION LIMIT WITH ELECTIVE DEFERRAL LIMIT.

(a) IN GENERAL.—Section 219(b) (relating to maximum amount of deduction) is amended by adding at the end thereof the following new paragraph:

"(4) COORDINATION WITH ELECTIVE DEFERRAL LIMIT.—The amount determined under paragraph (1) or subsection (c)(2) with respect to any individual for any taxable year shall not exceed the excess (if any) of—

"(A) the maximum amount of elective deferrals of the individual which are excludable from gross income for the taxable year under section 402(g)(1), over

"(B) the amount so excluded."

(b) CONFORMING AMENDMENT.—Section 219(c) is amended by adding at the end thereof the following new paragraph:

"(3) CROSS REFERENCE.—

"For reduction in paragraph (2) amount, see subsection (b)(4)."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1993.

Subpart B—Nondeductible Tax-Free IRAs

SEC. 2011. ESTABLISHMENT OF NONDEDUCTIBLE TAX-FREE INDIVIDUAL RETIREMENT ACCOUNTS.

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

"SEC. 408A. SPECIAL INDIVIDUAL RETIREMENT ACCOUNTS.

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

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

"(c) TREATMENT OF CONTRIBUTIONS.—

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

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

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

"(B) the amount so allowed.

"(3) SPECIAL RULES FOR QUALIFIED TRANSFERS.—

"(A) IN GENERAL.—No rollover contribution may be made to a special individual retirement account unless it is a qualified transfer.

"(B) LIMIT NOT TO APPLY.—The limitation under paragraph (2) shall not apply to a qualified transfer to a special individual retirement account.

"(d) TAX TREATMENT OF DISTRIBUTIONS.—

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

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

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

"(B) ORDERING RULE.—

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

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

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

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

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

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

"(C) CROSS REFERENCE.—

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

"(3) QUALIFIED TRANSFER.—

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

"(B) CONTRIBUTION PERIOD.—For purposes of paragraph (2), the special individual re-

tirement account to which any contributions are transferred shall be treated as having held such contributions during any period such contributions were held (or are treated as held under this subparagraph) by the special individual retirement account from which transferred.

"(4) SPECIAL RULES RELATING TO CERTAIN TRANSFERS.—

"(A) IN GENERAL.—Notwithstanding any other provision of law, in the case of a qualified transfer to a special individual retirement account from an individual retirement plan which is not a special individual retirement account—

"(i) there shall be included in gross income any amount which, but for the qualified transfer, would be includible in gross income, but

"(ii) section 72(t) shall not apply to such amount.

"(B) TIME FOR INCLUSION.—In the case of any qualified transfer which occurs before January 1, 1994, any amount includible in gross income under subparagraph (A) with respect to such contribution shall be includible ratably over the 4-taxable year period beginning in the taxable year in which the amount was paid or distributed out of the individual retirement plan.

"(e) QUALIFIED TRANSFER.—For purposes of this section—

"(1) IN GENERAL.—The term 'qualified transfer' means a transfer to a special individual retirement account from another such account or from an individual retirement plan but only if such transfer meets the requirements of section 408(d)(3).

"(2) LIMITATION.—A transfer otherwise described in paragraph (1) shall not be treated as a qualified transfer if the taxpayer's adjusted gross income for the taxable year of the transfer exceeds the applicable dollar amount.

"(3) DEFINITIONS.—For purposes of this subsection, the terms 'adjusted gross income' and 'applicable dollar amount' have the meanings given such terms by section 219(g)(3), except subparagraph (A)(ii) thereof shall be applied without regard to the phrase 'or the deduction allowable under this section'."

(b) EARLY WITHDRAWAL PENALTY.—Section 72(t), as amended by section 2021(c), is amended by adding at the end thereof the following new paragraph:

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

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

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

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

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

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

(e) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply to taxable years beginning after December 31, 1993.

(2) QUALIFIED TRANSFERS IN 1993.—The amendments made by this section shall apply to any qualified transfer during any taxable year beginning in 1993.

The PRESIDING OFFICER. The Senator from Ohio is recognized.

Mr. METZENBAUM. Mr. President, this amendment is very simple and straightforward. It is safe to say we have modified this amendment in cooperation with the manager of the bill and comanager.

It limits the individual retirement account, or IRA as it is commonly known, provisions in this bill to individuals earning under $80,000 and couples earning under $120,000 a year.

I want to be frank. I do not believe we ought to be doing what we are doing with these IRA's in this bill at all. But I believe it is absolutely certain, and incontrovertible, that IRA's should not be reopened for the wealthiest taxpayers in this country.

I supported Senator CHAFEE's amendment. I thought he was right. I thought we should have taken out the entire provision. I thought it was a very costly undertaking. That amendment lost; the Senate decided in its wisdom not to accept that amendment.

This amendment now provides that the IRA's will be applicable only to those individuals earning under $80,000, or married couples earning under $120,000.

According to the Joint Committee on Taxation, limiting IRA's to middle-income taxpayers will reduce the cost of the IRA provisions by $1.5 billion in 1992–97 and is likely to save billions after 1997.

I know the chairman of the Finance Committee feels strongly about IRA's and the need to encourage Americans to save.

I share Senator BENTSEN's desire to encourage savings, and I am glad that we have been able to limit these provisions to the middle class. For many families IRA's are an important savings incentive that should continue to be supported.

But I am not sure we can afford it and, therefore, I have reservations about the underlying bill. But I believe that, with this modification it becomes acceptable.

I am concerned about the need to finance the IRA provisions, especially after the expiration of the 5-year budget period in 1997.

I strongly believe that to the extent that the Congress decides to create or expand a tax break for a group of taxpayers, it must be fully and progressively financed somewhere else.

The IRA provisions in this bill are estimated to lose almost $8 billion over 1992–97. Most of the revenue raisers in this bill are simply changes in the timing of tax payments and do not provide offsetting long term or progressive revenue sources.

I am especially troubled by the budget effects of these provisions after 1997.

I had asked the Joint Committee on Taxation for an estimate of the bill's long-term costs. They refused.

They were unwilling to provide an answer. And I am not challenging their decision, because they feel that is within the limits of their jurisdiction.

All that the chief of staff to the Joint Tax Committee, who is doing his job, and I do not challenge his position—all he would say is "we do anticipate that the provision will continue to lose revenue outside of the window."

Although the Joint Tax Committee refuses to estimate the long-term effects of the IRA provisions, other groups have. According to the Congressional Research Service and several other organizations, the IRA provisions will lose $11 billion a year after 1997 and $60 billion overall.

I strongly believe that because of the considerable long-term cost of these provisions, we have an obligation to pay for them with offsetting revenues.

All year long we hear about the deficit. We talk about it, we make speeches about it, we go on TV programs, we go on radio programs, we do newspaper interviews and we talk about doing something about the deficit. We run to the floor to pass a constitutional amendment to limit the whole question of balancing the budget.

But we also talk about how we cannot spend money on social programs, on programs having to do with people being fed and clothed, housed and educated. We do not have the money for that. But when it comes to dealing with it head on, on the floor of the U.S. Senate, we are not prepared to do so.

Every day we tell people that we cannot provide immunizations for all children because of the deficit;

That we cannot provide prenatal care to all pregnant women because of the deficit;

That we cannot provide textbooks for every child because of the deficit;

That we cannot provide job training to every unemployed or unskilled individual because of the deficit.

I could go on and on.

I have said privately, and I say it publicly to my friend who is the manager of this bill and the chairman of the Finance Committee, it is my understanding that by taking this out—after putting in the housing credit provision—there still will be $200 million available for other purposes. I urge my colleague that it is his choice, but let us use it for one of these needy programs. Let us use it for child care or something in the field of education, or for job training, his choice. I do not even come here and say what it should be, necessarily. But I believe if you let $200 million sit out there, with this kind of a Senate, somebody is going to

come in with some special gimmick to take it. Let us use it for some worthwhile public purpose that all Americans would agree on.

But, somehow, out of thin air, when we want to provide an $8 billion tax break, 95 percent of which will go to the top 20 percent of taxpayers, the deficit is no longer an obstacle.

I can not justify restoring IRA's to all taxpayers when day after day we turn our backs on our neediest citizens.

For this reason, I do not think that the IRA provisions should be in this bill at all.

Especially not in a bill that supposedly is intended to provide urban aid to the cities.

I supported the amendment that the Senator from Rhode Island offered to strike these provisions.

Since the Senate failed to adopt that amendment, at the very least we should not be providing IRA's to the wealthiest taxpayers.

There is no reason that the top 4 percent of taxpayers should receive a special tax break.

As I stated earlier, our amendment is straightforward and simple.

It would limit IRA's to taxpayers earning under $120,000. It cuts the cost of this bill by $1.5 billion during the budget period and several billion thereafter.

It is a step in the right direction. I believe it should go forward and I am pleased to have been able to work out this amendment with the Senator from Texas.

Mr. BENTSEN addressed the Chair.

The PRESIDING OFFICER. Does the Senator from Ohio retain the floor?

Mr. METZENBAUM. Yes, for a moment. I ask unanimous consent that the Dole amendment 2934, as modified, be incorporated into the pending Metzenbaum-Rudman amendment.

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

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Texas.

Mr. BENTSEN. Mr. President, I do not want my friend from Ohio to talk me out of a compromise. We went through this debate at some length, and I assured him that the Joint Tax Committee stated that not only did we pay for this in that piece of legislation through the 5-year period, or the 6-year period, but that as far as they can estimate—and all of these estimating groups say that when you get that far up against budget—but it was their best judgment that we still had it paid for in the years thereafter and we did it by provisions in this piece of legislation that we had put it in permanently. That part of that was, in turn, a higher tax on those making over $100,000 a year. So that was in there.

But I congratulate the Senator in working together with us and arriving at that compromise. I am pleased to support it and accept it.

Mr. PACKWOOD addressed the Chair.

The PRESIDING OFFICER. The Senator from Oregon.

Mr. PACKWOOD. Mr. President, I ask unanimous consent to add two more cosponsors to my second-degree amendment, Senators DOMENICI and DOLE.

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

The PRESIDING OFFICER. The Senator from Rhode Island is recognized.

Mr. CHAFEE. Mr. President, as the floor manager, the chairman of the committee, pointed out we debated this rather thoroughly yesterday and we had a vote on which those on my side did not do terribly well.

I would like to say this, Mr. President, just for the RECORD, and I suppose there is not going to be a vote on this, and I shall not ask for a vote, but I would like to be recorded against it because I think the limitations go way too high. It is up to $80,000 for a single individual, $120,000 per family.

But I would also like to say that the costs of this in the outyears are very, very steep. The best estimates that we could obtain yesterday were between $11 and $17 billion. This is solely for the back-loaded IRA, so-called. The chairman has pointed out that the best information he has obtained is that—those figures, by the way, were for the unlimited amount of the so-called back-loaded IRA; in other words, with no limitations. Now we have limitations. My question is, does the chairman have any idea what the cost—forget the offsets—what the costs of just this program alone; that is the new back-loaded IRA provisions would cost in the outyears?

Mr. BENTSEN. Mr. President, I am assured that in the outyears that the revenue provisions that we have in the legislation now will still give us a reasonable balance in the outyears. They cannot give you anything that is exact in the way of adjustment and none of these organizations can because you get too many variables that far out.

Mr. CHAFEE. Mr. President, I would just like to say this. Obviously, if it is going to be paid for, that is fine, but I think we all have to remember that it is being paid for because taxes are coming from somewhere to pay for it and that this is a tremendous break for upper-income people, call it upper-middle class, if you will. It is a group that I believe does not need anymore breaks in our society. So, Mr. President, I ask if it is a voice vote that I be recorded as opposed to, voting no, on this.

Mr. DOLE addressed the Chair.

The PRESIDING OFFICER. The Republican leader.

Mr. DOLE. Mr. President, I will take 1 minute. There is going to be another amendment, not today, but I guess when we come back, because in the bill before us, the so-called Pep and Pease provisions is made permanent, a permanent tax increase to help pay for some of the IRA's.

My view is it is not necessary, it ought to be temporary. We had the budget agreement. We did not tell the American people being affected by the so-called Pep and Pease provisions that it was going to be permanent. It was only a temporary tax. Like anything else, once taxes start around here, they become permanent.

I would certainly recommend to President Bush that if we are not able to return the Pep and Pease provisions, one that phases out exemptions and others that deal with deductions, which affects a lot of people with large families, affects States and localities—you do not have to be rich; we are talking about middle-income Americans—then I would certainly recommend to the President, I do not see how he can sign a bill that makes these taxes permanent.

President Bush is being criticized now for the budget agreement for a temporary tax increase. Now we are being asked in effect to rub his nose in it by making that tax permanent. That amendment will be offered. The chairman does not want it discussed today or voted on today, but as soon as we return, we will be addressing some of the questions raised by the Senator from Rhode Island at that time, too.

Mr. ROTH. Mr. President, while I must say that given carte blanche I would have seen the Bentsen-Roth Super IRA pass in its original form, providing universal opportunities for families to save, I must say that I am pleased by the major improvements to the current IRA that will be made available with this compromise.

This agreement represents a threefold increase over previous limitations placed on individual retirement accounts. In other words, where once only families earning under $40,000 could benefit from IRA's, this change will allow families earning up to $120,000 to participate in the program. And this ceiling will be indexed for inflation. These are both positive developments.

While given my preferences I would have rather seen Bentsen-Roth IRA's made available to all Americans, I am encouraged that this compromise will increase the number of eligible taxpayers from its current 50 percent to what I believe to be around 90 percent. And I believe the flexibility that will still be allowed is very important for our families as they work toward self-reliance now and security in retirement. Even with this compromise the important conditions that are a part of Bentsen-Roth still stand. Penalty-free withdrawals from IRA accounts can be made to purchase first-time homes, to pay for medical bills, to finance education, and to cover lengthy periods of unemployment.

Each of these is important toward helping American families help themselves. They are important toward creating opportunities and allowing people to plan for the various economic needs they may face. Likewise, the fact that we are expanding the program's eligibility to cover about 90 percent of Americans is a major step toward our objective of increasing the amount of savings for capital investment—investment that our Nation seriously needs to realize its own bright economic future, to remain first among equals in the emerging global community.

There are setbacks to this compromise. Of course there are. I am concerned that placing a cap on who can and who cannot save will create inconsistency for families in their financial planning. Frankly, I am concerned about the lack of fairness that results from excluding those families that will not be able to participate. I'm concerned about the farmer who has a good year, who might earn $120,000 and then has one or two bad years. In his good year he will not be allowed to save; in his bad years he may not have enough to save. This same example could hold for men and women in many other professions—acting, real estate, athletics, small business, writing, and many, many more—professions where annual income is unstable and often unpredictable.

Likewise, I believe a plan that has caps will be more difficult for those who market IRA's. As well, such caps, and the inconsistency created by those caps, will always make any IRA appear less certain than it otherwise would be. And it is my opinion that America needs a stable, long-lasting program with strong congressional support—a program Americans can count on.

While this version if Bentsen-Roth is a step in the right direction, it leaves more to be done. I hope that when the moment is appropriate, we will complete our full objective.

The PRESIDING OFFICER. Is there further debate on the amendment? If not, the question is on agreeing to the amendment, as modified, as amended.

The amendment (No. 2931), as modified, as amended, was agreed to.

Mr. METZENBAUM. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. BENTSEN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

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

Mr. RUDMAN. Mr. President, I just wanted to express my appreciation to the chairman, Senator BENTSEN, and the ranking member, Senator PACKWOOD, and my colleague Senator METZENBAUM for delaying this action until this afternoon.

As many of my colleagues know, I traveled to New Hampshire early this morning to attend the funeral of Senator Thomas McIntyre, who served in this body with great distinction from 1962 to 1978. He was the first Democrat to be elected from New Hampshire. In many ways, he was the man responsible for building the Democratic Party in my State of New Hampshire. He was a personal friend.

I will offer a more substantial tribute to Senator McIntyre in September when we return. There is a great deal to say about the remarkable life of this friend of mine and a colleague of some of my colleagues now in this Chamber. I want to thank my colleagues for allowing me the time to get up there and back before taking up this amendment. I yield the floor.

Mr. BENTSEN. Mr. President, if I might comment, I congratulate the Senator on his comments concerning our former colleague, Tom McIntyre. He was a gentleman; he was a man of integrity. He made a major contribution to this body, and we all regret his passing.

Mr. RUDMAN. I thank the chairman for his remarks.

Mr. DOLE addressed the Chair.

The PRESIDING OFFICER. The Republican leader is recognized.

Mr. DOLE. Mr. President, earlier I discussed with the chairman and with the distinguished Senator from West Virginia [Mr. ROCKEFELLER] about offering an amendment, so-called section 29 extender, at this time under a time agreement; we would have an hour's debate today and then the remainder would go over until September. As I understand, there is no objection to that.

Mr. BENTSEN. I say to the distinguished Republican leader that is agreed to by the manager of the bill on this side.

Mr. DOLE. And we have the consent agreement. As I understand, it has been agreed to by Senator BRADLEY and Senator ROCKEFELLER.

AMENDMENT NO. 2939

(Purpose: To extend the section 29 credit for 8 months while reducing the period other provisions are extended to 15 months)

Mr. DOLE. Mr. President, I send an amendment to the desk.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Kansas [Mr. DOLE], for himself, Mr. ROCKEFELLER, Mr. HATCH, Mr. BAUCUS, Mr. BURNS, Mr. RIEGLE, Mr. GARN, Mr. CONRAD, Mr. SPECTER, Mr. SHELBY, Mr. WOFFORD, Mr. FORD, Mr. DOMENICI, and Mr. BINGAMAN, proposes an amendment numbered 2939.

Mr. DOLE. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

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

(The text of the amendment appears in today's RECORD under "Amendments Submitted.")

Mr. DOLE. Mr. President, this amendment, which is offered by myself and the Senator from West Virginia [Mr. ROCKEFELLER] extends the existing section 29 tax credit for the production of nonconventional fuels. In the past, this extender has always been included with the extenders contained in the bill reported by the committee—so this is not some new, untested provision of law being proposed.

Congress has repeatedly approved section 29 tax credits because it was good economic policy, good energy policy, and good environmental policy. Those policy considerations are as valid today as they were each and every time section 29 was extended.

On June 30—just a few short weeks ago—on a vote of 93 to 3, the Senate gave overwhelming approval to H.R. 776, the Comprehensive Energy Policy Act of 1992. The underpinning of that legislation was to address the problem that we are far too reliant on imported energy. As I reminded my colleagues at that time, two-thirds of our trade deficit is due entirely to imported oil. Let me restate that, two-thirds of our trade deficit is not due to Hyundai automobiles, not due to Sony televisions, not due to some structural advantage the Europeans enjoy, it's because we import too much oil. We even went to war because the Congress has avoided this issue for far too long.

And, when we considered the energy bill, several of us discussed offering this amendment at that time. But, it was our judgment that this extender should be considered—as it always has in the past—with the other extender provisions. That is why the amendment is offered today and why it should be overwhelmingly approved when we return in September.

Section 29 provides a production credit for nonconventional fuels produced from three sources: First, oil produced from shale and tar sands; second, gas produced from geopressured brime, Devonian shale, tight formations, coal seams, or biomass; and third, liquid, gaseous, or solid synthetic fuels, including such fuels when used as feedstock. The bottom line is that these fuels are domestically produced, they back out foreign oil and they would not be produced but for section 29. If the energy bill made any sense at all—and it seemed to with a 93-to-3 vote—then this amendment should be approved as continuing one of the only positive programs we have had on the books to promote domestic energy production.

Again, during the debate on the energy bill, I spoke about the rig count, the EKG test on the health of the domestic energy industry. We set six all-time-record low levels since the beginning of this year. The patient is in intensive care and the vital signs are weak. On any given day between 20 and 25 percent of the few rigs operating in

the oil patch are searching for section 29 fuel. Pulling the plug on section 29 would be like pulling the ventilator on a patient in intensive care.

Mr. President, the pending amendment does change existing law in two regards—both changes place caps on the amount of credit any producer can receive from any source. For all but tight formations and synthetic fuels, the credit is capped at 42 million cubic feet per year. For synthetic fuels and gas from tight formations, the full existing credit applies to the first 42,000 cubic feet per day. For any gas up to 550 million cubic feet, the credit is reduced by 25 percent. No credit is available for production in excess of those levels. This means we have proposed aiding only those projects which, without the credit, would be abandoned. The proposal, then, is similar to past proposals to assist stripper oil wells.

In summary, let me just say once again that this provision is good policy—it is about the only bright light in the oil patch, it is reducing our dependence on foreign oil. I urge my colleagues to support the amendment.

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

Mr. ROCKEFELLER. I thank the Presiding Officer. I particularly thank the Republican leader for his superb work on this. The agreement does not make it possible for us to vote on this day, Mr. President, but it does set a construct so we could do it in September when we return.

I am very grateful to Senator DOLE, to Sheila Burke, to the whip, to all the staff who have been so helpful in making this work; to the Finance Committee staff; and to Senator BYRD, who I am very proud to say is a cosponsor; and Senator HATCH, who was here just a moment ago; and to various others. It is a very good amendment. It does belong in the tax bill pending before the body.

I want to make it very, very clear, as the Republican leader has: Unless we extend the section 29 tax credit arrangement American jobs are in fact in peril. If the credit expires, tens of thousands of American workers will lose their jobs. There is no debate about that. It can be mathematically proven, and has been. It will inflict more pain upon more families and more communities.

We often speak about how the coal country, the steel country, and automobile country would be devastated by the loss of jobs. The devastation is just as great in America and proportionally in the oil and gas industry, although people do not often think of it that way.

A vital part of our Nation's oil and gas industry is linked in fact precisely and directly to this credit. With this amendment we are proposing to include the section 29 tax credit, and the larger package of so-called tax extenders in the legislation before us. In fact, RTS, the extension section 29 is still running, still in effect, so to speak.

Our goal is to preserve jobs and our goal is to create jobs and, in the meantime, to strengthen our energy and environmental national policy.

Section 29 provides a very key incentive to produce unconventional fuels, which provide a much-needed addition to the ordinary domestic energy supplies as we know them.

As we speak American troops are involved in maneuvers once again in the Persian Gulf. There is no better argument than this fact for redoubling our efforts to expand and to strengthen domestic energy exploration. Natural gas is one of the most important of our national energy resources and drilling of a portion of that gas depends wholly on section 29 credits.

I have spoken here many times about our country's need for achieving energy independence. Usually I speak with respect to coal. In this case it is on behalf of natural gas. Unfortunately, we have a long way to go toward a national energy policy, and independence.

This particular section 29 credit is one of the tools that we can and should deploy to fulfill this incredibly important objective.

Nationally, drilling has dropped by more than 75 percent in the last 10 years—75 percent—and without this incentive to produce unconventional fuels, it will drop another 25 percent from where it is today. That is dangerous in terms of jobs, and our economy, and obviously it is not good for our energy security.

Section 29 helps small independent producers extract fuel from places, Mr. President, where it would otherwise be very difficult and uneconomical for them to do so. I speak with such conviction about this due to the circumstances in my own State in West Virginia, alone; 80 to 90 percent of the drilling that we do would stop and would stop entirely and immediately if section 29 is not extended. It has been extended regularly over the years, and now all of a sudden it has been cut out, and the threat is that it might not be extended.

Appalachian producers are not, however, alone in this predicament. If section 2 is not extended, another 100,000 oil and gas jobs throughout this country would be lost. I believe, Mr. President, that would be about a third of the remaining jobs in the business.

The environmental benefit of section 29 is another reason to extend section 29. They make the case for investing in this credit, these environmental benefits. Without the credit, methane, which is emitted from coal mines and landfills, can escape into the atmosphere. The methane simply trickles up and disappears. And it is an ozone depleter. With the credit, that methane can be trapped and in fact it can be used for fuel.

The amendment also extends the in-service date for clean coal technology and facilities creating useful energy from such sources as biomass. That includes gas produced from landfill wastes. That ought to be a subject of great interest to the Senate.

We had a very lengthy debate over the municipal waste management bill. We all know that there are enormous landfills of waste across this country, which are now spilling over. Everyone knows we have that problem. What they do not know is that we can create fuel from those land wastes. This section 29 credit helps to channel this ever-growing source of pollution from coal mines and land waste sites to constructive purposes. Without the credit, Mr. President, more landfill-generated carbon dioxide and methane will cause pollution, will deplete ozone, and will foul the air that we all breathe.

In the past, concerns have been expressed by some about low prices for natural gas. That is an argument which has been used against section 29, that it will lower the price of natural gas.

Today, however, most people understand that section 29 gas accounts for less than 10 percent of domestic gas production, and that the real reason prices for gas have come down is because of improvements in the pipeline system, Canadian imports, warmer winters, and, quite simply, the recession.

Nevertheless, this amendment goes the extra mile to address the concerns that have been raised by people who worry about these things. We have modified the credit and we have done so in the following ways. We capped the credit, and we limited the benefit received by the largest wells, while targeting the incentive for the smaller producers whose very survival depends on section 29 as a credit.

Moreover, as we are already seeing in the marketplace, natural forces of supply and demand will assure reasonable prices. Uses, Mr. President, for natural gas are everywhere, not just in our present day, but in our future. With the requirements of the Clean Air Act, and recent provisions in the energy bill, in the years to come, there will be an even greater demand for natural gas to heat our homes, to cook our food, to dry our clothes, and happily to power our automobiles. Section 29 dependent drilling and facilities are very key elements in assuring that these needs are met.

This proposal, as the Republican leader has suggested, has bipartisan support. It recommends a compromise version of the section 29 credit. It is substantially cheaper than the credit which is now on the books. As opposed to previous years, the credit would be limited by instituting a cap that restricts the amount of gas produced than is actually eligible for the credit.

This proposal, therefore, costs less than a straight extension of the existing credit while addressing important national energy security needs and at the same time helping address important environmental concerns.

I have to stress, Mr. President, there is no question that this is not a question of giving a tax break to an unproductive American industry, nor an enormous industry. The credits are only earned for successful drilling effort.

I urge my colleagues to support and vote for this amendment, continuing section 29. It will create jobs, and strengthen our energy and environmental policy. We have offered a logical constructive way to finance the extension, and we are more than confident that the investment we are proposing will be paid back in the form of jobs and economic security, and international energy security.

SECTION 29 AMENDMENT

Mr. HATCH. Mr. President, I rise today to support the extension of the section 29 tax credit. This credit is extremely important to the domestic oil and gas industry of this country. Mr. President, during the recent debate on the energy bill, we discussed U.S. dependence on foreign oil imports and the harmful effects many fuels have on the environment. Mr. President, this credit addresses both of these issues. At a time when we are seeing domestic oil reserves and production decline, this credit encourages the domestic production of nonconventional fuels, increasing supply. This is critical if the United States is to kick its imported fuel habit.

This credit is critical for the beleaguered oil and gas industry in America which has seen the loss of over 350,000 domestic jobs since 1981. This is more than the domestic auto industry. In addition, the rig count for U.S. oil and gas production is at an all-time low with only 650 rigs currently active. Mr. President, 25 percent of these rigs are working because of the section 29 tax credit and nearly 60 percent of new domestic wells rely on the credit. If we allow this credit to expire, this new drilling will not occur and the rig count will continue to drop.

Mr. President, we cannot afford to let this credit lapse. Failure to extend this credit could result in the loss of an estimated 100,000 direct oil and gas jobs as well as the loss of $6 billion annual investment in nonconventional wells. As a result, State and Federal tax receipts would substantially go down. The domestic supply of oil and gas would decline and U.S. reliance on foreign oil increase. As the regulations contained in the Clean Air Act go into effect, demand for nonconventional fuels which burn cleaner than conventional ones, will go up and the U.S. industry will not have the infrastructure necessary to quickly respond and meet this demand.

This credit is a success story; it only applies to production coming from new domestic wells. The credit is only used if new wells are producing gas, increasing the domestic supply of gas and oil. The credit is available to anyone becoming involved in nonconventional fuel production. In addition, energy-consuming States benefit greatly from increased domestic supply.

Mr. President, the section 29 tax credit has proven to be effective and efficient. It has stimulated new drilling activity, preserved domestic jobs, and lessened the flow of oil and gas capital overseas. The credit stimulates the development of new technology. It encourages continued production of environmentally benign fuel. Mr. President, we need to extend this credit. It is important to U.S. producers, and most importantly, consumers. I urge my colleagues to support this amendment.

UNANIMOUS-CONSENT AGREEMENT

Mr. ROCKEFELLER. Mr. President, I would like to offer a unanimous-consent agreement, and I shall do so now.

SECTION 29 AGREEMENT

I ask unanimous consent that Senator DOLE be recognized to offer an amendment to section 29, and there be 1 hour on the amendment today, for debate only, equally divided between Senators DOLE and BRADLEY, and that no second-degree amendments be in order thereto today.

I further ask unanimous consent that only relevant amendments be in order to the amendment in September, and that when the Senate resumes H.R. 11 in September the amendment remain in order to H.R. 11 but the amendment not become the pending question unless agreed to by the managers of the bill, that there be 2 hours of debate remaining, equally divided between Senators DOLE and BRADLEY, of that time 10 minutes be under the control of Senator NICKLES, and immediately following the conclusion, or yielding back of time, or the disposition of amendments thereto, the Senate proceed to vote on or in relation to the amendment, and that no points of order be waived.

I further ask unanimous consent that there be 1 hour on any relevant second-degree amendments, equally divided in the usual form and that third reading of H.R. 11 not be in order prior to the disposition of the Dole-Rockefeller amendment, as amended, if amended.

The PRESIDING OFFICER. Is there objection?

Mr. BRADLEY. Reserving my right to object, Mr. President, and I will not object.

I thank the distinguished Senator from West Virginia for going the extra mile to work out this agreement. I have consulted with Senator NICKLES, and he is in agreement with what the Senator has proposed. Since he and I will be the primary people on the other side of this argument, I find this to be fair.

I appreciate the Senator's courtesy.

Mr. ROCKEFELLER. I thank the Senator from New Jersey for his kind words.

I ask unanimous consent for the request just made.

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

The PRESIDING OFFICER. Who yields time?

Mr. CHAFEE. Mr. President, is it in order now that I might, as in morning business, introduce some legislation that is unassociated with the legislation before us?

The PRESIDING OFFICER. Without objection, the Senator may proceed as in morning business.

Mr. CHAFEE. I thank the Chair.

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

The PRESIDING OFFICER. Who yields time?

PRIVATE HEALTH INSURANCE

Mr. CHAFEE. Mr. President, I notice that the Senator from West Virginia is on the floor. Earlier today, the Senator from West Virginia addressed the problems associated with private health insurance. He expressed concern about the abusive practices in the insurance industry, and he suggested the insurance companies are a part of the problem.

I would like to say I agree with my colleague from West Virginia.

I believe that the Senator from West Virginia made a perfect case for moving forward this year—this year, 1992—with small-group-market insurance reform.

I might say, Mr. President, if the Democrats in the Senate, including my colleague from West Virginia, would work with the Republicans to enact such legislation this year, workers would not have to worry about losing their health insurance when changing jobs. They would not have to worry about having their insurance canceled when most needed, which is when they get sick. They would not have to worry about the large increases in health insurance premiums from one year to the next. We can stop these practices this year if the Democrat Senators will join with us and do something this year.

Mr. President, we could enact this and other health care legislation if the Democrats would cease making statements, and work to bring a bill to the floor.

Mr. President, I might say that, as I have noted before, there are some 11 points of commonality to the health care legislation that has been intro-

duced in this body. I would just like to tick those off. I will say this, Mr. President: The 11 points are not exactly the same. But it is possible to work out compromises this year, and enact some health care reform this year in the U.S. Senate.

These points of commonality are as follows: Reform insurance market; improve small-employer purchasing power; expand community-based and rural heath services—those are the so-called community health centers. Encourage coordinated care—that is so-called managed care. Eliminate costly State-mandated benefits; provide fair tax treatment of health insurance premiums—in other words, the individual self-insured ought to be able to deduct his premiums. Allow State experimentation; reform medical liability; reduce administrative costs and redtape; encourage primary and preventive care; expand research to promote effective health care.

Mr. President, I see that the managers of the bill are on the floor, so I will let them proceed with the basic underlying legislation. I did think it was important to note that the concerns of the Senator from West Virginia are valid, and that the Republicans stand ready to enact legislation this year in dealing with health care reform.

I thank the Chair.

TAX ENTERPRISE ZONES ACT

The Senate continued with the consideration of the bill.

TARGETED JOBS TAX CREDIT

Mr. HARKIN. Mr. President, I would like to ask the distinguished chairman of the Committee on Finance whether he is in agreement with me regarding Congress' intent with respect to extension of the targeted jobs tax credit [TJTC].

As the chairman is aware, the TJTC Program is made up of two elements, a tax credit, and an appropriation of Federal funds which are expended by the U.S. Department of Labor [DOL] to assist the State jobs services to administer the program. The tax credit expired after June 30, 1992, but would be renewed effective on the date of its expiration under the provisions of the tax bill both as adopted by the House of Representatives, and as we are likely to agree to in the Senate. Congress last year approved appropriations to administer the program through to September 30, 1992.

My question relates to the intent of Congress and the Committee on Finance with regard to extension of the TJTC. I am concerned about the proper expenditure of those appropriated TJTC moneys, an issue which is of special concern given the likelihood that the House and Senate will not meet in conference over the tax bill until sometime in September.

It is my understanding as the chairman of the Appropriations Subcommittee which approves funding for the DOL that TJTC funds which have been appropriated through to the end of the current fiscal year should continue to be used for the purpose of processing TJTC applications and requests for certification, and that the State jobs services should remain open for that purpose, regardless of whether Congress takes final action on the tax bill this month or sometime in September. Is my characterization of the intent of the committee regarding extending the TJTC correct?

Mr. BENTSEN. The Senator from Iowa is correct. As the Senator stated, the House has included in its version of H.R. 11 a provision extending the targeted jobs tax credit, as has the Committee on Finance. Furthermore, it is my intention that the final version of this legislation will extend the TJTC retroactively to June 30, 1992.

Mr. HARKIN. With that assurance, I believe that the fact that the TJTC has expired, and that final action on its renewal may not take place until sometime in September should not affect the State jobs services' obligation to use appropriated TJTC funds exclusively to process applications and requests for certification and for other TJTC administrative purposes. In this respect, I call upon the Secretary of Labor to instruct the State jobs services accordingly, and to take all necessary measures to ensure that they remain open for those purposes.

FIRST-TIME HOME BUYER TAX CREDIT

Mr. HOLLINGS. Mr. President, I am pleased to be a cosponsor of Senator PACKWOOD'S amendment to reinclude the first-time home buyer tax credit. On the whole, our economy has showed virtually no signs of improvement and an economic stimulus of this type is long overdue.

The housing segment of the economy has long been viewed as one of the leading indicators of economic strength. Recently, however, this lagging sector has played a major role in the prolonged recession. This credit will provide the stimulus needed to inspire consumer confidence, create jobs, and get the economy moving again. Mr. President, the proposed $2,500 tax credit would stimulate the creation of 240,000 jobs, the production of 125,000 additional new housing starts, and 400,000 more existing home sales. This tax credit will make the American dream of home ownership possible for an additional 340,000 first-time home buyers.

Mr. President, we are not any better off economically than we were a year and a half ago. The housing industry is suffering a sustained recession, despite inconsistent signs of recovery. Not only would a first-time home buyer tax credit give a boost to the housing industry, it would create a ripple effect that will inject $20 billion throughout the economy. We need to encourage investment in order to stimulate this economy and get our people back to work. This tax credit, Mr. President, does just that.

SALE OF ASSETS

Mr. DOLE. Mr. President, I would like to commend the chairman of the Finance Committee for his amendment relating to the sale of assets by farmer cooperatives. Farmer cooperatives in my home State of Kansas and throughout the United States are faced with needless complexity and confusion regarding the determination of what is patronage sourced income. This legislation seeks clarification.

Farmer cooperatives are a critical and integral part of the Kansas agricultural economy. There are over 200 farmer cooperatives operating in virtually every one of the State's 105 counties. A substantial number of the 70,000 Kansas farmers are owner-members of these local cooperative associations. But this is a national issue—the National Council of Farmer Cooperatives has made action in this area its top tax legislative priority.

Farmer cooperatives are governed by special tax rules under subchapter T of the Internal Revenue Code. Those rules require a determination as to whether income or loss items derive from patronage as opposed to non-patronage sources. The distinction is crucial, since patronage sourced items are not subject to tax at the cooperatives' level if distributed to the cooperatives' member-patrons. Nonpatronage income generally is taxed to the cooperative(s) whether or not distributed to patrons.

Unfortunately, the cooperatives face mixed signals as they address the issue of what is patronage sourced and what isn't. This has been a particular problem with respect to sales of assets held by cooperatives for use in connection with day-to-day patronage operations.

Treasury regulations and key IRS rulings have created confusion and uncertainty with regard to the proper treatment for the gain from the sale of property used to facilitate business done with or for patrons.

The courts have repeatedly endorsed the so-called facilitative test as the controlling legal standard for determining whether an income or loss item is patronage sourced.

The proposed amendment codifies the facilitative test and clarifies that such test applies regardless of the particular type or character of the asset involved. The amendment recognizes that patronage-sourced income includes the gains and losses from assets used to facilitate the conduct of business done by cooperatives with or for patrons. The provision clarifies that gain or loss from the disposition by a farmer cooperative of any asset may be treated as patronage sourced if the farmer cooperative is able to demonstrate, as a mat-

ter of fact, that the asset was used to facilitate business with or for its members.

Mr. President, this legislation brings a needed degree of certainty to an area of the tax law where uncertainty exists now. Farmer cooperatives are not asking for a new tax break—rather they want clarification where confusion now exists. Further, no inference should be drawn from this legislation that the Internal Revenue Service's interpretation of present law on this issue is correct.

Mr. DASCHLE. Mr. President, the bill before us today represents an honest attempt to begin to address our sagging economy, create jobs, and restore a sense of hope to residents of economically depressed areas who feel excluded from mainstream America.

I commend the chairman of the Finance Committee for his leadership in bringing this legislation to the floor. He kept the committee focused on the task of crafting a national bill while dealing with individual members' disparate interests and concerns. H.R. 11 is a testament to the chairman's vision and legislative skill.

A highlight of this bill is the enterprise zone provision. This innovative attempt to revitalize economically depressed areas of the country has been the focus of considerable public debate.

Part of the challenge of evaluating the enterprise zone idea has been to separate rhetoric from reality. As a long-time supporter of the concept, I have always believed that Federal enterprise zones merit a trial, but have remained aware that they are not cost-free. H.R. 11 establishes a Federal enterprise zone program that will give the concept a fair and timely test.

This is true of both the bill as it was reported out of the Finance Committee and as it would be amended by the committee substitute. The latter represents a reasonable compromise with those who have called for a more expanded enterprise zone proposal. My only concern about the substitute was that it would have been paid for by the elimination of the first-time home buyer tax credit, which I support. It now appears that the issue has been resolved in a manner consistent with budget guidelines and that the credit will remain in the bill.

Several points about the enterprise zone program in this legislation merit brief mention.

First, the bill narrowly defines the benefits offered in enterprise zones to avoid the kinds of abuses we have seen in the past in some State programs. It contains limitations and monitoring measures to prevent enterprise zone benefits from being used improperly or by undeserving individuals or companies.

Second, the bill does not ignore rural America or Indian reservations. The level of poverty and the depressed state of the economy on many Indian reservations and in many rural areas rivals that of the Nation's worst urban poverty zones.

In my State, for example, unemployment on the Pine Ridge and Rosebud Reservations hovers around 87 percent, and Shannon and Todd Counties, where the majority of reservation residents live, are two of the poorest counties in the United States. While Indian lands and rural sections of the country may not be as populated as urban areas, population alone would be an unfair basis for excluding them from enterprise zone legislation. This bill assigns eight zones to rural areas and two zones to Indian reservations.

Third, the bill avoids the seductive trap of looking at enterprise zones as a panacea for our economic woes. Unlike the administration, we have acknowledged the mixed results from enterprise zone programs that have been undertaken in the past on the State level. In light of this history, it would be imprudent to use $5.5 billion of taxpayers' money for an enterprise zone program that could not be adequately monitored and tested at a Federal level. The committee bill reflects realistic and well-defined expectations for what we hope to accomplish from enterprise zones, including a way to measure our progress.

As a final note about the enterprise zone provisions, I am pleased that the chairman has worked with me and my colleague from Iowa, Senator GRASSLEY, in addressing our concerns about the impact of the enterprise zone incentives on family farms. As originally drafted, H.R. 11 would have made available additional tax incentives to corporate farms at the direct expense of family farmers. This clearly would have been a subversion of the spirit of the enterprise zone principle, and my understanding is that the committee substitute would prevent corporate farms from taking advantage of enterprise zone tax incentives, except those with total assets of less than $500,000. This approach is supported by the major farm groups, and I thank the chairman for working with us on this issue.

As I mentioned earlier, the bill before us goes far beyond the enterprise zones provision, a fact that could get lost in the emotional debate over the structure and number of the zones. It also includes additional tax incentives designed to stimulate the economy.

The scope of H.R. 11 bears emphasis. The bill includes most of the President's economic growth proposals.

It extends an array of tax provisions that expired at the end of June, most of which are widely supported in Congress. Among those provisions are the exclusion for employer-provided education assistance, the mortgage revenue bond program for first-time home buyers, the low-income housing tax credit, and the targeted jobs tax credit.

It provides aggressive incentives to boost personal savings making it easier to save for the purchase of a first home, higher education, extraordinary medical expenses, and, of course, retirement.

It repeals most of the luxury excise taxes, which have had a detrimental impact on employment in businesses that manufacture those products.

It builds upon previously passed legislation to protect taxpayers in their dealings with the Internal Revenue Service.

Finally, the bill acknowledges that in far too many cases our current welfare system is failing the people it is intended to help and establishes a Community Works Progress Demonstration Program that will provide the means for moving those in need of public assistance back into the national work force. This program will help address the needs of our communities by providing a source of talent, skill and labor to work on meaningful community projects, and will give people an opportunity to work themselves out of situations that have caused them to depend on public assistance.

H.R. 11 is not perfect. No bill is. But it is a responsible approach to a number of our deepest economic concerns, and it builds a sound foundation for future action.

Mr. President, I support this legislation, and I urge my colleagues to support it. The American people are looking to their elected officials for a ray of hope that at last something will be done to address this country's economic despair. I hope we will not disappoint them.

TAXATION OF STUDENT LOAN DEBT DISCHARGE

Mr. BUMPERS. Mr. President, I want to compliment the Finance Committee and my friend Senator DANFORTH for inserting a provision in this bill to correct an inequity in the taxation of students whose education loans are cancelled.

The provision updates section 108(f) of the Internal Revenue Code to take into account new programs for the cancellation of student loan debts which programs did not exist when this section was enacted.

The House Ways and Means Committee adopted this provision as section 110 of H.R. 2735. This action came on the initiative of Congressman BEN CARDIN, a member of the House Ways and Means Committee. He and his able staff person, Sean Cavanaugh, are to be commended for this action.

In the Senate Senator DANFORTH and his able staff person, Mark Weinberger, get the credit for inclusion of this provision in the Finance Committee.

The provision adopted is based on bills that Senator DANFORTH, Congressman CARDIN and I introduced on April 17, 1991. The Senate bill is S. 837 and the House bill is H.R. 1956. In the Senate we have several distinguished co-

sponsors, Senator BOREN and Senator GRASSLEY with the Finance Committee, and Senator KERRY.

I explained the purpose of the provision in my statement on April 17, 1991, so I will not repeat it here, but everything that I said then applies now.

Let me just say that I am interested in this issue because I have been the principal advocate in the Congress for amending the Federal student aid programs to provide for loan cancellation for students who perform full-time, low-paid community service upon graduation. Because my proposals concern cancellation of a Federal Government loan by the Federal Government itself, it falls within the current language of section 108(f). I am delighted to say that the Higher Education Act Amendments of 1992 include a whole new loan cancellation provision for Stafford loans, which I proposed. But, my point here is this work on my other bill brought this issue covered in this bill to my attention.

The provisions here covers one type of loan cancellation programs.

It extends the current discharge of indebtedness provision to include discharge of loan debt by institutions of higher education or by other tax-exempt organizations. This provision covers programs where it is the university or college's own loans that are being cancelled. These loans might be extended to help the student attend college or they might be extended simply to help the student to repay another loan. It makes no difference if the loan is for tuition or for loan cancellation per se. The university can use this loan cancellation incentive directly or indirectly.

As with our original bill this provision provides that the loan cancellation cannot be funded by the employer of the student. We need this limitation to avoid any possibility of an employer substituting loan cancellation, which this bill ensures does not generate taxable income, for wages and salary, which is fully taxable.

The employment of the student must be in an occupation with unmet needs or in areas with unmet needs. This would, for example, cover public interest or poverty law, legal services, community service, the Peace Corps or VISTA, comparable full-time service with a tax-exempt community service organization and other similar service.

The determination of whether the loan cancellation qualifies under this standard would be that of the university itself. It certainly will not spend its limited funds to cancel loans for occupations which have no difficulty attracting applicants and employees. Unless there are some extraordinary circumstances involved, I cannot imagine the Service challenging a loan cancellation program on these grounds.

The provision is prospective in application. It applies only to loan cancellations that occur after the date of enactment of the legislation. It confers no retroactive windfall on any student for a loan cancellation in the past. But, it does apply to students who have received loans from the university in the past as long as the cancellation does not take place until after the effective date of the bill.

I thank Senator DANFORTH and Congressman CARDIN and their staff and the members of the Finance Committee for their help on this worthwhile provision.

CHILD SUPPORT TAX EQUITY

Mr. BUMPERS. Mr. President, I am delighted that the Senate Finance Committee has accepted the Child Support Tax Equity Act as an amendment to H.R. 11. This proposal is one that Senator DURENBERGER and I have made and it was Senator DURENBERGER who offered the provision as an amendment during the markup of the bill.

This provision is called the Child Support Tax Equity Act because it gives like-situated taxpayers and citizens the same rights and the same access to government tax benefits.

OUTLINE OF LEGISLATION

The legislation permits taxpayers, principally mothers, to take a nonbusiness bad debt deduction for the amount of child support that is due to them but which they are unable to collect. This amendment is consistent with the tax policy for nonbusiness bad debt deductions.

In terms of the bad debt deduction for unpaid child support payments, this legislation simply puts mothers who are unable to collect child support on a par with businesses and other taxpayers who can't collect their debts. Mothers and businessmen both have debts that they cannot collect. They both suffer an economic loss. And they both deserve a bad debt deduction. This is a matter of simple equity.

The legislation then includes the amount of child support that is not paid as taxable income to the taxpayers, principally fathers, who fail to pay the child support that they owe. This amendment is also consistent with the tax policy for discharge of indebtedness.

When a taxpayer is discharged from a debt that taxpayer is deemed to have received income in the amount of the debt that was discharged. If we did not have this provision in the Tax Code, everyone would be giving gifts to everyone else and it would all be tax exempt. The discharge of indebtedness provision ensures that taxpayers who receive an economic gain in the form of a discharged debt are treated the same as taxpayers who receive an economic gain in the form of a salary or wage.

In terms of the discharge of indebtedness provision, the legislation simply puts the fathers who aren't paying child support on a par with businesses and other taxpayers who don't repay their debts. Fathers and other debtors both have obligations that they do not honor. They both reap an economic windfall when they do not repay their debts. And they both deserve to recognize taxable income on the amount of the debt that they do not pay. This is also a matter of simple equity.

This pairing of the bad debt deduction with the discharge of indebtedness provision is perfectly appropriate. When the mother takes the bad debt deduction for a debt she cannot collect, it follows that the father has been discharged from his child support indebtedness for the debt he is not paying.

The bad debt deduction for the mother and the discharge of indebtedness for the father are logical corollaries, book ends of the same transaction, and perfectly just. When a debt is written off, that debt is, in effect, discharged. If one taxpayer realizes a loss, she can't collect the debt that is due to her and her children, and is permitted a deduction for that loss, the other taxpayer realizes a gain, he no longer has to pay the debt, and he is taxed on the value of that gain.

This is symmetrical and it is equitable in terms of tax policy and it is clearly just in terms of social policy. We have every reason to assist mothers who cannot collect child support and we have every reason to penalize fathers who refuse to pay the support they owe to their children.

REVENUE IMPLICATIONS

In the current budget climate the key issue for any new proposal is its cost. On this issue this legislation stands on very strong grounds.

The nonbusiness bad debt deduction for unpaid child support will lose revenue and this revenue loss must be financed under the pay-as-you-go requirements of last year's deficit agreement. Fortunately, according to the Joint Committee on Taxation the discharge of indebtedness provisions will raise more than enough revenue to pay for the new bad debt deduction.

In fact, the joint Committee finds that the discharge of indebtedness provision raises $30 million more in revenue over the first 6 years than the bad debt deduction provision loses. This finding is based on the fact that the fathers who fail to pay child support tend to be in a higher tax bracket than the mothers who are not paid child support. So, when the fathers pay tax on the discharge of their child support debts it raises more revenue than when the mother takes a bad debt deduction for the amount of the child support payments that they cannot collect.

This revenue estimate also takes into account the likelihood that the IRS will not be able to collect taxes for the discharge of indebtedness in each case where a taxpayer has claimed a bad debt deduction. The fact that the fathers are in higher tax brackets more than offsets this factor.

INCENTIVES FOR MOTHERS AND FATHERS

All tax laws provide incentives to taxpayers. In drafting this bill I have been very concerned about any possible incentives for mothers not to attempt to collect the child support payments to which they are entitled or for fathers not to pay the amounts of child support that they owe.

I am convinced that neither of these incentives is created by this legislation and other incentives are created that will increase the collection efforts and payments that are made. In short, this bill will help the situation.

A mother only qualifies for the deduction if she has first obtained a divorce or separation instrument that obligates the father to make child support payments. As I have said a divorce or separation instrument is a decree of divorce or separate maintenance or a written instrument incident to such a decree or a written separation agreement. This requirement for the deduction gives mothers an incentive to formalize the child support payment obligation. Mothers who obtain these legal documents are much more likely to be able to collect child support payments than those who don't. So, in creating an incentive for mothers to formalize the child support payment obligation this legislation will help them to collect the payments to which they are due.

Mothers who take the deduction in most cases will be in the 15 percent tax bracket. The deduction is worth only 15 percent of the face value of the child support that is owed. She can only collect the other 85 percent of the claim by continuing her efforts to enforce the payment obligation. The legislation permits her to do this and, if she is later successful in securing payment, she will simply declare that payment as income in the year in which it is received.

When a father has been given notice by the mother or the IRS, he is likely to be shocked. He will be facing a situation where he must either pay the mother or pay the IRS. He would only have to pay the IRS the amount of tax that is due and this amount will vary with the tax bracket in which he finds himself. But, paying 15 percent, 28 percent or more of the amount that is due may well encourage him to make the payments to the mother. Given a choice of paying the IRS or paying the child support for his children, many fathers would prefer the latter.

When the father is found by the IRS, the IRS will not be giving the mother information on his location. This would violate his confidentiality as a taxpayer. But, he will have been found and that may have a major psychological impact on his inclination to pay. He will no longer be immune to the mother's attempts to collect the child support. He will be paying a penalty for his failure to make the payments that are due.

CONCLUSION

I look forward to working with the chairman and members of the Finance Committee on this bill. I am delighted to have the support of a broad-base of respected children and child support enforcement organizations.

I ask unanimous consent that an outline of the bill be printed at the conclusion of my statement. A detailed technical description of the terms of the provision is available from my office upon request.

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

OUTLINE: CHILD SUPPORT TAX INCENTIVES

Bill uses tax law regarding bad debt deductions and discharge of indebtedness to help parents who cannot collect child support and to prevent windfall for parents who do not pay child support.

BAD DEBT DEDUCTION

Clarifies that taxpayers, principally mothers, who are not paid child support owed to them to take a bad debt deduction for the amount of the child support that is not paid.

Deduction is allowed for taxpayers who do not itemize their deductions. Above the line deduction.

Bad debt deduction is allowable up to $5,000 in unpaid child support per child per year. Threshold is indexed for inflation.

Deduction is allowable only if taxpayer's adjusted gross income does not exceed $50,000 per year. Threshold is indexed.

Deduction is allowable for any periodic payment of a fixed amount that is required to be paid.

Requirement for payment to be made must be found in a legally enforceable agreement, decree or order. Encourages taxpayer to obtain enforceable child support right.

No deduction is allowed for first year in which payments are not made. Encourages taxpayers who owe or are owed child support to work out initial problems with payments.

In subsequent years, the deduction is allowable only if at least $500 in child support payments have not been paid. Once threshold is exceeded, full amount of non-payment is deductible.

The taxpayer claiming the deduction must identify the children with respect to whom child support payments are required to be made and, to the extent possible, the taxpayer who is required to make these payments. Same standard as in welfare reform law.

The deduction is allowed for child support payments to any child for whom an exemption for a dependent is allowable.

If the child support payments for which a deduction has been taken subsequently are paid the mother must include payments as taxable income in the year in which they are paid.

Mother is not barred from seeking to collect the child support that is owed by father. Value of deduction is only 15 percent or 28 percent of value of payments, so mother has incentive to seek collection of full amount rather than simply taking deduction.

DISCHARGE OF INDEBTEDNESS

Requires taxpayers, principally fathers, to pay tax on the amount of any child support payments they do not make as a discharge of such indebtedness. Prevents windfall for fathers who fail to pay child support.

When mother claims bad debt deduction, father is notified by the mother or the I.R.S. of the amount of the unpaid child support payments and that he must include this amount in his gross income on his next tax return.

If the father subsequently pays the child support that is due, he may claim a deduction for such payments in the year in which they are paid.

Minimal I.R.S. burden involved. Taxpayer claiming deduction must have legally enforceable order and record of non-payment. Taxpayer who allegedly has failed to make payments may dispute obligation to pay or provide records of payments. A simple and objective process. Current penalties for fraudulent tax claims prevents abuse.

BUDGET IMPACT OF LEGISLATION

Joint Tax Committee finds that tax provisions of the bill raise $30 million in revenue over a five year period. This is true because fathers, who pay tax, are in higher tax brackets than mothers, who claim deduction.

POLICY ISSUES WITH LEGISLATION

A mother who cannot collect a child support debt should be treated the same for tax purposes as a businessman who cannot collect a debt. This is simple equity.

A father who refuses to pay child support payment debt should be treated the same for tax purposes as a borrower who is discharged from a debt by the lender. This is simple equity.

Legislation gives mothers incentive to obtain legal order requiring payments to be made and gives fathers incentive to make payment to mother rather than to I.R.S.

Legislation helps children of families where no child support payments are made. It penalizes fathers who fail to make required child support payments.

Discharge of indebtedness for fathers pays for bad debt deduction for mothers.

Mr. BYRD. As I am certain the chairman of the Finance Committee is aware, the House-passed measure, H.R. 11, contains fiscal year 1993 appropriations totaling $500 million in additional assistance for enterprise zones. I am pleased to see that the Finance Committee amendment to H.R. 11 recommends deletion of these appropriations. Am I correct?

Mr. BENTSEN. The chairman of the Appropriations Committee is correct. The Finance Committee voted to strike the appropriations from H.R. 11, as well as the authorizations for these appropriations, which were also included in H.R. 11.

Mr. BYRD. As the chairman knows, the Appropriations Committee stands ready to consider additional fiscal year 1993 appropriations for enterprise zones subsequent to enactment of the authorizations for them. But, I cannot and will not support appropriations for enterprise zones in a tax bill. As I have said, I appreciate the action of the Finance Committee in striking these appropriations from the House-passed measure. May I have the assurances of the chairman of the Finance Committee that he will not bring back a conference agreement on H.R. 11 which contains any appropriations for enterprise zones in it?

Mr. BENTSEN. The Senator has such assurances.

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THE SUTER CASE

Mr. RIEGLE. Mr. President, during the Finance Committee markup on the bill, I asked the chairman to hold a hearing on the issue of the recent Supreme Court decision in the case of Suter versus Artist M. because I am deeply concerned that millions of people may be denied benefits in the future under Social Security Act Programs thanks to the Supreme Court ruling.

Mr. BENTSEN. I am familiar with this decision and appreciate the Senator from Michigan's concerns about it. As the Senator knows, I have asked Senator MOYNIHAN to hold a hearing on the Suter matter in the Social Security Subcommittee, and he has graciously agreed to do so.

Mr. RIEGLE. I thank the chairman. Because the bill we are considering today is very important for our cities, I know the chairman will want to go to conference with the House shortly after we get back from the August recess. My hope is that the hearing on the Suter decision will be scheduled as soon as possible, so that this issue can be addressed prior to the conference.

Mr. BENTSEN. Let me assure my friend from Michigan that I fully intend to have a hearing on the Suter matter prior to the conference on this bill.

Mr. WELLSTONE. Mr. President, the bill we are now considering is, to say the least, a vast piece of legislation. We are calling it the Revenue Act of 1992 because most of it deals with changes in the Tax Code. But part of it makes changes in laws having to do with welfare reform and foster care. Other parts are meant to provide our response to the crisis in American cities. In fact, it is this last part that has been the focus of much of the discussion of this bill, so that until a day or so ago we all wanted to call this the urban aid bill. Our goal with this bill—our promise to the American people—was to address some of the fundamental reasons behind the riots in Los Angeles. This was to be our response to the desperation born of no opportunities, poor housing, bad schools and, in brief, no hope for many, many Americans.

So imagine my surprise, Mr. President, when I read the headline on the front page of the Washington Post of July 5. It reads as follows: "Tax Legislation Gains New Life, Senate Takes Up $31 Billion Bill Full of Provisions for Interest Groups." Does this mean that the bill we have before us provides $31 billion for American cities? I should point out that I would welcome such an initiative. That would be close to the $35 billion the mayors have estimated they need to address the emergency in our cities. That would mean additional money for infrastructure, housing, public works, education, and social services. I am very happy to see, Mr. President, that the Finance Committee has been able to find $31 billion that we can use. I am happy to see that we are able to come up with these sorts of sums when we realize that we are facing a national emergency—a recession that has now dragged on for 2 years and has accentuated the already dire conditions born of a decade of neglect of our cities.

But Mr. President, I was absolutely shocked to discover that we have not found this money for the purposes I have mentioned. We have not found the will to actually spend money on our cities, on those programs that we know work and that we know can address the dire problems that face us. Instead we have before us a bill full of special provisions for well-off Americans and corporations.

This is somewhat of a curiosity. I am sure I do not have to remind my colleagues that we are in the middle of considering appropriations bills for fiscal year 1993. All of us have spent a great deal of time over the past few weeks trying to persuade our colleagues on the Appropriations Committee to maintain some of the spending that responds to the needs of our constituents and of the country. Our colleagues certainly do their best to meet our requests, but they keep telling us that there is no money. We cannot spend more on education because there is no money. We all agree that more should be spent on housing, but there is no money. We would all like to see more spent on transportation. We promised America that we would create jobs with the highway bill, but there is no money. We would all like to stimulate the economy and alleviate the suffering of millions of Americans, but there is no money.

There is no money, Mr. President, except for $31 billion in special breaks for big corporations and rich folks. To be sure, there are a few token provisions in the bill that masquerade as urban aid. The bill provides $5.5 billion in tax credits for the creation of enterprise zones in 125 places around the country. That sounds like a lot, especially when compared to the original proposal of only 25 zones. However, its not really very much when you take into account that this proposal means tax incentives worth about $8.8 million per enterprise zone. The distinguished chair of the Finance Committee has expressed some doubts about the effectiveness of enterprise zones. He has argued that spending more money per zone will enable us to better measure the effectiveness of this experiment in using Federal tax incentives in enterprise zones. Now, suddenly, the committee has expanded the number of zones enormously, while shrinking the incentives in each zone by more than half. Apparently the chairman's doubts about the zones have been eased. I continue to doubt, however, and I wonder why we are making this our only urban aid initiative when we know so little about how these will work. We know what sorts of programs will work to stimulate urban economies. Why, if we are faced with an urgent need to address problems in our cities, should we waste the taxpayers' money on experiments of dubious merit when we have answers at hand?

I am not at all sure I understand why the Finance Committee has decided to pursue this strategy. Secretary Kemp, who proposed the zones idea originally, wants to provide the same amount of dollars for 300 zones. President Bush, whose lack of sympathy for the problems of urban America is well known, claims he is interested in addressing more areas than this bill. The House version of the bill provides that areas where census tracts have an unemployment rate 1.5 times the national average and a poverty rate of 20 percent in 90 percent of the census tracts would qualify to be enterprise zones. I am sure we all agree that any area that meets these criteria is in dire straights. With a national average unemployment rate of 7.8 percent right now, areas that would qualify as enterprise zones would have an unemployment rate of 11.7 percent. It has been a very long time since we have seen numbers like that. Some analysts argue that under these criteria, 150 American cities would qualify as enterprise zones. Let me be very clear here. That's 150 entire cities. The situation is clearly far more desperate than can be addressed by experimenting with 125 very small enterprise zones.

So this is what has been billed as the big answer to our urban problems. Certainly, there are a few other provisions tossed into this bill that might help relieve some social problems. Foster care reform is good, changing the way savings are counted in eligibility for AFDC is good, providing additional money for the JOBS Program is to be commended. Mr. President, I have, in other circumstances, supported and even cosponsored legislation that would further each of these goals. I would like to support them again. I am very disappointed that we cannot have separate votes on these issues, separate debates during which we can discuss their merits. But these measures are little afterthoughts on this bill. They are not its focus. Indeed, helping America out of its economic crisis is not its focus. These, along with a few other programs for what the authors call income security, amount to about $2.9 billion in spending. Along with the enterprise zone section of the bill, that gives us close to $8.4 billion in tax credits and spending for working and poorer Americans. Still not terribly close to the $35 billion the mayors have asked for.

And that leaves almost $23 billion for corporations and wealthier Americans.

Mr. President, I know that arguments can be made for each and every one of the tax provisions in this bill. Maybe if this country was in better shape, I might be willing to believe that these provisions deserve the time of the Senate and the money of American taxpayers. But given the current circumstances of this society, of this economy, I cannot understand why we should even be discussing them. The main thrust of this bill is based on a dubious idea, at best. Provision after provision writes off our ability to manage the economy, by giving away billions in tax breaks. This sort of policy limits our future ability to formulate effective policy. But it is also very difficult for us to predict how much this might cost. It is well known how difficult it is to estimate the real cost of tax expenditures. They could easily be double or triple the estimates that have been provided. How can we take this risk when we are faced with a huge deficit? How can we take this risk when we are faced with a dire urban crisis?

Mr. President, this bill is not an urban aid bill. This bill will do very little to help rebuild our cities. It will not revive the economy. It will not help us control the deficit; in fact, it will probably contribute to it in the long run. The headline writers at the Washington Post were right: This bill is a huge gift to special interests. Mr. President, I cannot support this bill. I cannot understand how any of my colleagues can, in good conscience, support this bill at this time. This is precisely the kind of legislation that has frustrated many Americans, that has given this Congress the reputation of being a do-nothing Congress. I see from this bill that we can raise the revenues we need to begin to respond to this crisis in this country. When will we begin to use those revenues to do just that?

COAL EXPORT CREDIT

Mr. MCCONNELL. Mr. President, I intended today to offer an amendment which will help our country preserve jobs in the coal fields and the transportation sector. A credit is necessary to help coal exporters offset some of the costs of the coal industry retiree health benefits provision which will be addressed by House and Senate conferees on the Comprehensive National Energy Act (H.R. 776).

Considerable efforts over the last few months has resulted in an agreement which, in many ways, balances the interests and needs of the Bituminous Coal Operators Association [BCOA] companies, nonunion coal companies, and the United Mine Workers [UMWA]. However, the agreement has one serious drawback—it will put some U.S. export coal producers out of business. While energy coal producers can pass the cost of government-mandated costs onto utilities and, ultimately, consumers, exporters of metallurgical coal must absorb the cost or lose market share. At some point, the increased cost of funding the Government-mandated fund will make many of these mines unprofitable. This serious problem can be partially cured by the enactment of a coal export credit. Enactment of the credit will in no way upset the delicate compromise reached in the energy bill.

Under current law (24 U.S.C. 46 and 48), corporations are allowed a general business credit against the income tax. Existing business credits are designed to encourage a variety of worthwhile activities including research and development, rehabilitation of buildings, construction of low-income housing, hiring the disadvantaged, and providing access to the disabled, among other purposes.

The proposal would amend IRC section 48, for purposes of IRC section 46, to create a new component of the general business credit, that is, a coal export credit. The credit will allow U.S. coal producers to recoup a portion of the taxes paid to the United Mine Workers of America Combined Benefit Fund created by the passage of the Coal Industry Retiree Health Benefit Act contained in the energy bill, H.R. 776.

Let me review the importance of the export coal market to the U.S. economy. At present, U.S. coal producers export over 4.7 billion dollars worth of coal, over 112 million tons, a year, greatly benefiting our overall balance of trade. Presently, the major markets for United States coal are the EC and other European countries, 57 percent; Japan, 11 percent; Canada, 10 percent; Brazil, 9 percent, Taiwan, 4 percent, Chile, 3 percent; Korea, 3 percent; and Turkey, 2 percent. Coal exports create highly paid, unionized jobs in coal fields and the transportation complex, including rail lines and port operations. In fact, over 20,000 workers are directly employed in the export coal business and many times that amount are employed in ancillary industries.

These salaries, and purchases of supplies and equipment, have a multiplier effect which is felt throughout the affected local economies.

The overseas markets for export coal are highly price-competitive; most contracts are written solely on the basis of price. There is no possible way to pass on the cost of paying into the new retired miners fund created by the Coal Industry Retiree Health Benefit Act. In contrast, contracts for energy coal used by domestic utilities usually contain provisions which allow the pass-through of costs mandated by Federal legislation. To make matters worse, U.S. producers work from a distinct geographic disadvantage in many markets, especially in the Far East. Many of our major competitors—Australia, Indonesia, and Poland—have lower transportation costs.

Mr. President, let me illustrate by using the example of Island Creek Coal, which is headquartered in Lexington, KY. Island Creek has been in the coal industry since 1904, and has been primarily a union operator. During that time, they have endeavored to take care of their employees and retirees and comply with contractual commitments to the union. With the reach back provisions contained in the coal benefit package, Island Creek Coal is likely to be assigned a substantial additional number of retirees and it is probable that, on a per ton basis, they will be paying nearly twice as much for health care as they currently pay. This additional burden will likely add up to between a $1.50 and $2 per ton to Island Creek's production.

More than 40 percent of Island Creek Coal's annual sales go into the export market, to countries like Brazil, Italy, Belgium, Spain, and countries in the Far East. Nearly one-half of Island Creek Coal's 3,000 employees are dedicated to mining coal that goes to the export market. These employees are all UMWA represented and they are primarily located in Virginia and West Virgina. The additional cost will put many of these jobs in jeopardy.

Mr. President, over the last 18 months, exports have largely kept the economic slowdown in this country from turning into a full-fledged recession. Companies like Island Creek have been out on the frontlines, fighting for export contracts and contributing to this country's export efforts. It would be foolish now to add an additional new burden on these companies and force them out of the international markets.

In closing, let me emphasize that the alternative to this amendment is the virtual shutdown of the export coal business in the United States. Ironically, one of the reasons why the overseas metallurgical coal production in the United States serves an essentially overseas market is the demise of the domestic steel industry. Metallurgical coal operators must export in order to remain in the business. As a result, they are now one of our preeminent export industries.

If they are forced to bear the substantial cost of funding the Coal Industry Retiree Health Benefit Act, they will not remain competitive, and will follow the steel industry into decline and eventual extinction. I ask that the Energy bill (H.R. 776) conferees, especially Finance Chairman BENTSEN work to correct the inequitable treatment of coal exporters.

Mr. WARNER. Mr. President, I rise in strong support of my esteemed colleague, and also seek assurances that the conferees on H.R. 776 will consider a measure of partial relief from the extraordinary costs to be imposed upon present and former members of the Bituminous Coal Operators Association [BCOA].

Under the leadership of Senators ROCKEFELLER, FORD, and WALLOP, the Senate approved a landmark financing package in H.R. 776 for the troubled retiree health insurance program of the United Mine Workers of America [UMWA]. This is good news for nearly 10,000 Virginia retirees and their families.

I am now seeking to strengthen the UMWA retiree health package by assuring that those coal companies, which will bear the cost, will remain viable, productive employers. I wish to emphasize that my efforts are meant only to provide greater support for the health benefit package.

Let me explain the importance of the export coal market to the Commonwealth of Virginia. For the year 1991, Virginia coal miners produced 42 millions tons. Just over half of Virginia's coal is sold as coking coal for steelmaking; the overwhelming majority of which is sold overseas.

The international market for coking, or metallurgical, coal is extremely price sensitive. While Virginia export coal is considered to be the highest quality coking coal available in the world, our producers face stiff competition from Australian and Canadian producers in key markets, notably Japan, South Korea, and Taiwan. Simply put, the costs of funding the new UMWA retiree health plan cannot be passed on and may well result in reduced business opportunities abroad, fewer domestic jobs, and closed mining operations. One company with extensive operations in my State, exports over 70 percent of its production, and directly supports over 2,000 coalfield jobs.

Present and former members of the BCOA in other States face the same or similar problems. It is essential that we consider whether a measure of Federal relief is appropriate in complying with a new Federal mandate.

I sincerely hope that in the coming weeks, those of us representing coal States can work together in a common effort. We need to examine all available information on the impact of projected costs. We might then be able to take an informed look at a specific tax credit for coal exports, a broader measure for all BCOA metallurgical coal production, or perhaps what might be most beneficial, an industrywide tax credit for all present and former BCOA members. I look forward to working with all of my colleagues on this most important question for the American coal industry.

SECTION 29—NONCONVENTIONAL FUELS TAX CREDIT EXTENSION

Mr. BAUCUS. Mr. President, I rise today in support of my colleague's amendment to restructure and extend the section 29 tax credit. The credit in its new format will preserve existing jobs and create new ones. And it will strengthen our Nation's energy and environmental policy.

The section 29 credit was designed to spur development of additional energy supplies from unconventional sources—to give us additional energy security by expanding the potential sources of oil and natural gas. And it has worked.

Just considering natural gas, estimates are that about one-third of all new gas wells are drilled as a direct result of section 29. And that figure could well move to almost one-half by the year 2005, if the credit is extended. These wells, and their production, are now a national energy asset.

But allowing this credit to expire would slash energy exploration and drilling to even lower levels than currently exist. And they are already pretty low. In fact, the count of active drilling rigs in this country is now at the lowest level since records have been kept. In my State of Montana, for instance, there were 1,149 wells drilled in 1981. Last year there were 205. Without the section 29 credit, exploration activity would be even lower.

And expiration of the credit would add to the job losses in the oil and gas industry, which have totalled 350,000 to 400,000 nationally during the 1980's, over 3,800 in Montana alone.

The credit we are proposing today is more tightly crafted than the current credit. As a consequence, it costs only about half as much.

It accomplishes this by imposing an annual production cap on each well. Any gas produced in excess of the cap would not be eligible for the credit.

Like the existing section 29 credit, the proposed amendment would apply both to wells that produce oil and gas from nonconventional geological formations, and to facilities that produce fuel from nonconventional sources.

Currently there is very limited production of synthetic oil and gas from coal. With the oil bust of the early and mid-1980's, there has been little reason for anyone to develop these synthetic fuels. But the Clean Air Act changes that.

Coal fired utilities must reduce emissions to meet strict new pollution standards. By encouraging development of synthetic oil and gas, the proposed credit offers the utilities greater flexibility in meeting such standards.

The credit also provides an environmental benefit by supporting facilities which create usable fuel from landfills. The methane gas produced from the decomposition organic matter represents an energy source that usually goes to waste. The proposed section 29 credit will provide the impetus to further develop this energy source.

Finally, there is no question that section 29 has successfully stimulated domestic drilling activity and increased our gas reserves. By continuing it in a modified form, the credit will further add to these domestic gas reserves and decreases our use of imported Venezuelan, Algerian, and Canadian natural gas. This also will help achieve reasonable price stability in a market which has exhibited considerable price volatility.

Mr. President, our amendment is a modest effort to address the environmental and energy concerns of our country. I urge my colleagues to support this effort.

AN ACHIEVABLE DREAM

Mr. WARNER. Mr. President, as we debate the Urban Aid bill, I rise today to salute an innovative program in my State that is reaching out to inner city youths by teaching them the skills necessary to succeed in life. This summer camp pilot program, an Achievable Dream, is a unique public, private sector initiative by various community and business leaders in Newport News who are determined to make a difference in the lives of those children most at risk. I had the privilege of visiting the camp several weeks ago and joining the children in their daily routine. I was extremely impressed and convinced that the Achievable Dream Program will work and should serve as a national demonstration project for how to reach our inner-city youth.

An Achievable Dream is designed to enhance learning for 100 9- and 10-year-old rising fourth graders from the Newport News public school system by giving them the confidence and self-esteem that is so vital to their intellectual and physical development. By participating, these children will discover that there are no limits to what they can achieve. This program combines academic and athletic instruction and provides children with an opportunity to improve themselves while enjoying their summer in a safe and exciting environment.

Plans are being developed to expand the Achievable Dream Program to many more youth through the senior year of high school. This summer's program is a start, and, I must say, a remarkable one.

What is perhaps most unique in this endeavor is the sport in which these children are receiving lessons. In an attempt to break down the traditional barriers that exist in society, these campers are learning the great game of tennis. To illustrate that tennis is not just a game for those who have a membership at the country club, these children are learning that they have the ability to face any challenges that life presents, regardless of their race, color, or creed. The lessons that these students learn on the tennis courts also apply in the arena of life. With determination, hard work and the right mental attitude, anything that these children wish to accomplish in life is truly an achievable dream.

It was a tremendous experience for this Senator to witness firsthand the progress being made on behalf of our most precious resource, our children. As I spoke with these children, I could

see in their young faces the willingness to compete and the desire to succeed. They were disciplined and attentive, and seemed to genuinely appreciate the fact that someone was giving them a chance. Removed from the dangers posed by drugs, crime, and violence, these children were focused instead on reading and writing, athletics and developing computer skills.

I salute the efforts of those who have dedicated their time, energy and talents to making this project a reality. Role models are critically important to children, and these instructors have been a source of inspiration to these individuals and given them a sense of hope for the future. I am confident that this program will have a strong impact on those who are seeking to fulfill their achievable dream. Our future success is dependent upon an educated and well-trained citizenry, and it is my belief that programs such as this will help lead America into the 21st century.

Mr. President, as I met with these children in Newport News, I tried to impress upon them the need to believe in themselves and to take control of their own lives. It is my belief that this program will help them do just that. Each and every child in the Achievable Dream Program has what it takes to succeed. They need only a chance to realize their true potential and prove themselves.

I will always remember one bright young man by the name of Donte Bailey, who captured the true spirit of the achievable dream project in a poem that he read to me and the entire camp. It read as follows:

To achieve a dream you have to try,
Reach for the stars and reach for the sky.
Get an education, build self-esteem,
Be a good sport and go for your dreams.
Always remember and always believe,
If you are strong enough to dream,
You are strong enough to achieve.

What was perhaps most important about this reading was the sense of excitement that was felt in this child's voice. They were not just words on a piece of paper, but a testament to the mission of an achievable dream.

It is my hope that other localities across America will see the merits of this program and undertake similar measures to ensure that all children have an opportunity to achieve their dreams. I commend all of the teachers, coaches, counselors, organizers, and unselfish volunteers who are making dreams come true. But, most importantly, I wish to commend the children who are working so hard to build their minds and bodies to become the best they can be. Each and every child in this program is a winner and they are learning that, whatever it is in life that they wish to attain is, indeed, "an achievable dream."

Mr. President, this pilot program is but one element of a much greater cooperative effort which is envisioned between the community of Newport News and the military installations on the Virginia peninsula.

The Armed Services Committee, in our report on the Defense authorization bill, indicated that we should begin to experiment using military personnel, facilities and other resources to help alleviate some of the problems that plague our young people. It is clear that local educational authorities and community leaders must remain in charge, but the military services, with their resources and experience, must assist.

Within the Civil-Military Cooperative Action Program included in the Defense authorization bill, the Secretary of Defense is authorized to use DOD resources to support such efforts. I will work with the Secretary of Defense to urge him to provide the necessary support and assistance to facilitate a cooperative, cost-sharing pilot program between the community of Newport News and the military installations on the Virginia peninsula. Likewise, I will seek other sources of Federal funds to join with those of the private sector and local and State governments to make this program work for at risk youth. We will make the Achievable Dream Program a model for the Nation.

Mr. MOYNIHAN. Mr. President, I rise to invite the attention of Senators to sections 4525 and 8001–8004 of the Revenue Act of 1992 which incorporate the Charitable Contributions Tax Act of 1992, a bill that I introduced earlier this year along with Senators DANFORTH and BOREN. The bill provides for permanent repeal of restrictions on the deductibility of gifts of appreciated property. These include works of art, securities, collectibles, and such. It also removes the cap on the amount of tax-exempt bonds that can be issued by private colleges and universities, and restores to them their status as exempt persons under the Tax Code.

These provisions are of the greatest importance. They will not be understood as such; which is precisely why they are. The United States is the only country on Earth in which by and large the most important institutions of the civic culture are private. Which is to say, they are not government institutions. This comes so naturally to us that we hardly notice it.

But consider. Sixty percent of all first professional degrees in fields such as medicine, engineering, business, and law are granted by private colleges and universities. We take this for granted; it would be unimaginable in, say, Europe, where education is overwhelmingly the domain of government. Similarly, our great research hospitals, our treasure-filled museums, our symphony orchestras, opera companies, zoological and botanical institutes, are almost all of them—outside of the Nation's Capital—institutions founded by private citizens and to this day run by boards made up of private citizens. They are heavily dependent on private endowments and private gifts.

We also take for granted, or somehow assume, that these private institutions are wealthy. Well, they aren't. We look up and find them, especially the research universities, in trouble all over the land. This trouble could develop to the point where the finest institutions of learning on Earth, the most productive sector of American society, begin an irreversible decline. It wouldn't take long. The great Viennese economist, Joseph Schumpeter, predicted that the decline of liberal society would come about through the conquest of the private sector by the public sector. We are betting that it needn't. It is a big bet.

New York State is home to more of these private institutions than any other State in the Nation, more than any other nation on Earth. Consider just some of our research universities: Columbia, NYU, Rockefeller, Rochester, Cornell. These are institutions of world status. And they go far back in our history, and in the history of modern science. Columbia, as King's College, received its charter from George II in 1754. Just so, our medical centers, New York Hospital, which received its charter from George III in 1771; Columbia-Presbyterian, Mount Sinai, the list goes on. Our New York Philharmonic was founded in 1842, before, that is, nine-tenths of the nations in the world today even existed. Our Metropolitan Opera, was founded in 1883. Come to think, Lorenzo da Ponte, who wrote the libretto of Don Giovanni, ended his career as a professor of Italian at Columbia. As for the Metropolitan Museum, the Museum of Modern Art, the Guggenheim, the Jewish Museum, the Brooklyn Museum, the New York Botanical Gardens, the Brooklyn Academy of Music, the incomparable New York Library, the Morgan Library, the New York Historical Association—I could go on and on—they have few peers anywhere. In the nice phrase used by New York University, they are private institutions in the public service.

Upstate we are blessed with a string of worldclass institutions, including the Buffalo Philharmonic and that City's Albright Knox Art Gallery; Rochester's Philharmonic and Memorial Art Gallery; the Syracuse Symphony Orchestra and Utica's Munson-William-Proctor Institute. Again, I could go on.

The tax legislation of the 1980's resulted in a serious cutback in the amount of private giving to such institutions. In the case of Columbia, NYU, Rochester, Cornell, and Rockefeller University, it stopped tax-exempt borrowing for capital improvements such as laboratories, libraries, infrastructure. The Revenue Act of 1992 repeals

the restrictions on bonds and on gifts of appreciated property.

It does more. It restores to these universities their status in law as exempt persons. That is to say, the law recognizes their public purpose, and gives them equal status with state-run institutions. As also with State governments and other government bodies. For research institutions of any kind, this status is indispensable. To have stripped the private institutions of this status, as we did, in 1986, was indefensible. But it was done, and there was little, if any, notice. That fact should put us on notice. The private sector is in jeopardy, if not better understood. It is estimated that the provision on bonds will cost $91 million and the provision on gifts of appreciated property some $328 million over the next 5 years. There could hardly be a more productive tax expenditure.

MACK AMENDMENT ON CAPITAL GAINS

Mr. DURENBERGER. Mr. President, I rise in opposition to the amendment offered by my distinguished colleague from Florida, Senator MACK.

There are many reasons for the decline of our manufacturing competitiveness. But I would note that the decline did not occur overnight. One of the reasons for that decline is the relatively high cost of capital we have had vis-a-vis our international competitors.

But the real reason for this decline is that many of our companies do not take the long-term view and invest for the future. That is why I support the idea of restoring a tax incentive for long-term investment, in particular a capital gains differential for long-term investment.

I would preliminarily note that nearly all of our major trading partners, including West Germany, Japan, Canada, Taiwan, South Korea, and most of the EC countries, either exempt long-term gains from taxation, or impose a tax far lower than the United States tax. Although it would not be fair to attribute our short-term trade problems to how we tax long-term gains, I believe the issue is very important to the overall long-term health of our economy.

Several years ago, I introduced legislation that would have provided a sliding scale long-term capital gains differential with a minimum 4-year holding period. I introduced that bill because I believed, and still believe, that a real long-term capital gains differential will help to encourage a shift in investment strategy away from the short term and toward the long term.

I believe the capital gains amendment under consideration will not achieve that goal. The holding period is a year. That will not encourage long-term thinking and long-term investment.

Mr. President, I think it is important to point out that the current Tax Code makes almost no distinction between the entrepreneur who risks his capital on an unproven new frontier technology and the arbitrage speculator who gets in the middle of the latest corporate takeover. In fact, our current system penalizes the long-term investor and entrepreneur because it does not factor in the impact of inflation on assets held for a substantial period of time.

By allowing a sliding scale exclusion for truly long-term gains, and providing an indexing option, this proposal diminishes the impact of inflation on asset values, and reduces the possibility that investors will be taxed on phantom gains.

Furthermore, establishing a differential for long-term gains will help to alleviate the current bias in the Tax Code which favors debt instead of equity, and encourages companies to saddle themselves with far more debt than I think is prudent.

Although a capital gains differential will not completely eliminate this bias, it will reduce the cost of capital for American companies, while increasing the after-tax rate of return on equity. That, in itself, should lessen the pressure on corporate managers to focus on the short term at the expense of long-term planning.

But a capital gains differential must be focused on long-term investments. Four years at a minimum. This amendment fails to meet that standard and, therefore, I will vote against this amendment.

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.

PROGRAM

Mr. MITCHELL. Mr. President and Members of the Senate, I have consulted with the managers of the bill, the Senators from Texas and Oregon, as well as with the distinguished Republican leader, and I am advised that substantial progress has been made on the pending bill but that there is no likelihood of proceeding further this evening. And, therefore, there will be no further rollcall votes this evening.

The Senate will, later this evening, adjourn until September 8 and a number of Senators have inquired as to the schedule upon our return. I will, today, send to every Senator a letter with respect to the schedule at that time. But I take this opportunity to announce to Senators what the schedule will be on the first few days, and what is likely to occur in that final legislative work period.

The Senate will return to session on Tuesday, September 8. There will be legislative action during that day and votes will occur on Tuesday, September 8, but not prior to 5 p.m. However, there will be votes on that day, even if it is necessary for me to invoke a rare procedural vote to ensure the presence of Senators.

It is my hope that we will shortly be able to obtain an agreement for handling of the VA–HUD appropriations bill, and it is my intention in any event to proceed to consideration of that bill in the late afternoon of Tuesday, September 8.

Thereafter, as many Senators are aware, we have a long list of important legislation to consider, including the pending bill, including the Department of Defense authorization bill, 6 remaining appropriations bills, and of course the 12 appropriations conference reports—all of which will have to be completed prior to October 1.

In addition, under a previous agreement I will, on September 8, move to proceed to the product liability bill. There will, undoubtedly, on that date be a cloture motion filed on the motion to proceed, setting up a vote on cloture on that measure on the morning of Thursday, September 10.

The target date for adjournment, for me, is Saturday, October 3. Many Senators have come to me privately to urge that we meet that day. It will be very difficult to do; and will, in any event, require two things: One, a great deal of cooperation from all Senators; and two, lengthy sessions including Saturday sessions and the possibility of rollcall votes on any day and at any time during which the Senate is in session.

Last week in a colloquy I had with the distinguished Republican leader, he rightly objected to consideration of this or any other measure last Saturday because, he said, there had not been sufficient notice provided to Senators. And that was a fair and legitimate concern. However, I am now providing such notice to Senators a month in advance, that there could be sessions on any Saturday in September. Every Senator is hereby placed on notice of that fact. And any commitments made on any day during September now must be made with the full knowledge that there may be sessions on those days and everyone having had fair notice that possibility exists.

The only exception to the announced schedule will be on Monday, September 28. There will be no rollcall votes on that day due to the observance of a religious holiday. Other than that, votes could occur at any time. We have a lot of work to do.

If we do not get both cooperation from Senators and some fairly lengthy sessions, then it will be very difficult, if not impossible, to meet the target date and the session could extend on into October—much longer than I personally prefer, and I believe much longer than other Senators prefer.

Accordingly, Mr. President, I want to thank the managers for their diligence

in making the substantial progress that has been made so far on the pending bill, and the distinguished Republican leader.

I would like, now, to attempt to get the unanimous-consent agreement with respect to the VA–HUD bill.

UNANIMOUS-CONSENT AGREEMENT

Mr. MITCHELL. Mr. President, I ask unanimous consent that when the Senate considers Calendar No. 588, H.R. 5679, the VA–HUD appropriations bill, there be 30 minutes for debate on the bill, equally divided and controlled between Senators MIKULSKI and GARN; that the following amendments be the only amendments in order, other than the committee-reported amendments, which shall be adopted as original text for the purpose of further amendment upon the reporting of the bill, and relevant second-degree amendments to the listed amendments; with time for debate on the listed amendments limited where indicated, with second-degree amendments limited to the same amount of time as listed for the amendment to which they are offered; and with all time equally divided in the usual form, unless otherwise stated:

Bumpers: Cutting the space station—90 minutes under the control of Senator BUMPERS; 1 hour under the control of the managers; and 1 hour under the control of Senator GLENN;

Domenici: Safe drinking water;

Domenici: Related to EPA;

Grassley: Ethanol—20 minutes;

Jeffords: To prohibit the funding of EPA research centers after fiscal year 1993 unless there has been a competitive review—30 minutes;

Moynihan: Relevant to the National Acid Precipitation Abatement Program (NAPAP)—10 minutes;

Bingaman: Relevant to drinking water—20 minutes;

Bingaman: Relevant to drinking water—20 minutes;

Graham: Related to administrative expenses—20 minutes;

Graham: Four additional instances—related to administrative expenses—10 minutes each;

Graham: Related to housing—20 minutes;

Mikulski: Technical amendment—10 minutes;

DeConcini: EPA and arid water quality standards—30 minutes;

DeConcini: Southwest environmental research center—20 minutes;

Chafee: Hazardous waste—30 minutes;

Dole: Fertilizer—10 minutes;

Durenberger: Ethanol—40 minutes;

Symms: Related to FHA mortgage limits—40 minutes;

Wirth: Extension of the statute of limitations on RTC civil liability suits—30 minutes;

Wirth: EPA "Green Lights" Program—30 minutes;

Reid: EPA "Green Lights" Program—30 minutes;

Gramm: Relating to environmental protection;

Sasser: Homeless funding—30 minutes; and

Dixon: Relating to the financial adjustment factor for low-income housing.

A further proviso that Senator LAUTENBERG and Senator CHAFEE, if they are present, be first recognized to offer a second-degree amendment to any listed amendment dealing with safe drinking water, and a point of order by Senator MCCAIN relative to unauthorized projects, on which there will be 90 minutes equally divided on any proposition submitted to the President or appeal a ruling of the Chair and amendments on which the two managers have agreed.

I further ask unanimous consent that upon the disposition or yielding back of time on the bill and the disposition of the listed amendments or the failure of any of the Senators with listed amendments to offer their amendments, the bill be read for the third time and the Senate proceed without any intervening action or debate to vote on passage of the bill; that following passage of the bill, the Senate be deemed to have insisted on its amendments, request a conference with the House on the disagreeing votes of the two Houses, and that the Chair be authorized to appoint conferees on the part of the Senate.

The PRESIDING OFFICER. Is there objection?

Mr. DURENBERGER. Mr. President, reserving the right to object. Mr. President, I believe part of that agreement included an ethanol amendment by the senior Senator from Minnesota; is that correct?

Mr. MITCHELL. That is correct.

Mr. DURENBERGER. Did the agreement also include a second-degree amendment to the Domenici amendment on the Safe Drinking Water Act by Senator CHAFEE and Senator LAUTENBERG?

Mr. MITCHELL. Pursuant to the order, relevant second-degree amendments are in order and may be offered by anyone. There is an additional proviso that Senator LAUTENBERG or Senator CHAFEE, if they are present, be first recognized to offer a second-degree amendment to any listed amendment dealing with safe drinking water.

Mr. DURENBERGER. If the leader would not object to adding the name of the Senator from Minnesota to that list, the Chafee, Lautenberg, or Durenberger on preferential amendments to safe drinking water, I will withdraw any objection.

Mr. MITCHELL. I have no objection to that. I was not involved in negotiating this agreement. I do not know how it was that Senator LAUTENBERG and Senator CHAFEE's names were added on there. I assume I have to check with them to make certain they have no objection. I personally have no objection.

Mr. DOLE. I think you have all the same interests.

Mr. DURENBERGER. I am sure it is all the same interests but I cannot clarify that now. I am sure, I say to the leader, I am sure that the interest—I know the interest Senator CHAFEE and I have is similar and it is in opposition to Senators DOMENICI and BROWN, but I cannot speak for Senator LAUTENBERG. It is a matter of assuring myself.

Mr. MITCHELL. Mr. President, I am going to momentarily suggest the absence of a quorum so that members of the staff can call those Senators and make certain it is all right. But I personally have no objection. I yield to the distinguished Republican leader.

Mr. DOLE. I am advised by Senator NICKLES he would like one amendment added, EPA/water projects, 30 minutes.

Mr. MITCHELL. A Nickles amendment regarding EPA water projects.

Mr. DOLE. EPA/water projects.

Mr. MITCHELL. Mr. President, I modify my request to add that to the list. I am advised that calls are coming in as we speak for more amendments. I will have to wait just a moment while we are waiting on one other call.

So I do now suggest the absence of a quorum, Mr. President.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

Mr. MITCHELL. Mr. President, I am now advised the Senators involved have no objection to adding the name of the Senator from Minnesota to the list, and the other call did not materialize into an amendment.

Mr. President, I now ask that my request be modified to add the name of Senator DURENBERGER to that of Senator LAUTENBERG and Senator CHAFEE where it appears in the agreement. I further modify the request to add a McCain amendment regarding border environment.

The PRESIDING OFFICER. Is there objection to the modified request? Without objection, it is so ordered.

The text of the agreement is as follows:

Ordered, That when the Senate considers cal. #588, H.R. 5679, the V.A.-H.U.D. appropriation bill, there be 30 minutes for debate on the bill, equally divided and controlled between Senators Mikulski and Garn; that the following amendments be the only amendments in order, other than the committee-reported amendments, which shall be adopted as original text for the purpose of further amendment upon the reporting of the bill, and relevant 2nd degree amendments to the listed amendments; with time for debate on the listed amendments limited where indicated, with 2nd degree amendments limited to the same amount of time as listed for the amendment to which they are offered; and with all time equally divided in the usual form, unless otherwise stated:

Bumpers: Cutting the space station—90 mins. under the control of Sen. Bumpers; 1 hour under the control of the managers; and 1 hour under the control of Sen. Glenn;

Domenici: Safe drinking water;

Domenici: Related to E.P.A.;
Grassley: Ethanol—20 mins.;
Jeffords: To prohibit the funding of E.P.A. research centers after FY'93 unless there has been a competitive review—30 mins.;
Moynihan: Relevant to the National Acid Precipitation Abatement Program (NAPAP)—10 mins.;
Bingaman: Relevant to drinking water—20 mins.;
Graham: Related to administrative expenses—20 mins.;
4 additional Graham: Related to administrative expenses—10 mins. each;
Graham: Related to housing—20 mins.;
Mikulski: Technical amendment—10 mins.;
Deconcini: E.P.A. and arid water quality standards—30 mins.;
Deconcini: Southwest Environmental Research Ctr.—20 mins.;
Chafee: Hazardous waste—30 mins.;
Dole: Fertilizer—10 mins.;
Durenberger: Ethanol—40 mins.;
Symms: Related to F.H.A. mortgage limits—30 mins.;
Wirth: Extension of the statute of limitations on RTC civil liability suits—30 mins.;
Wirth: E.P.A. "Green Lights" program—30 mins.;
Reid: E.P.A. "Green Lights" program—30 mins.;
Gramm: Relating to environmental protection;
Sasser: Homeless funding—30 mins.;
Dixon: Relating to the financial adjustment factor for low-income housing;
Nickles/Boren: E.P.A. water project; and
McCain: Related to border environment.

With a further proviso that Sen. Lautenberg or Sen. Chafee or Sen. Durenberger, if they are present, be first recognized to offer a second degree amendment to any listed amendment dealing with safe drinking water.

McCain: Point of order relative to unauthorized projects—on which there be 90 minutes equally divided on any proposition submitted to the Senate or appeal of the ruling of the Chair.

Amendments on which the 2 managers have agreed.

Ordered further, That upon the disposition or yielding back of time on the bill, and the disposition of the listed amendments or the failure of any of the Senators with listed amendments to offer their amendments, the bill be read for the third time, and the Senate proceed, without any intervening action or debate, to vote on passage of the bill; that following passage of the bill the Senate be deemed to have insisted on its amendments, requested a conference with the house on the disagreeing votes of the two houses, and that the Chair be authorized to appoint conferees on the part of the Senate.

Mr. MITCHELL. Mr. President, I thank my colleagues for their cooperation. I now suggest the absence of a quorum.

Mr. President, I withhold that request, and I thank the Senator from Nebraska for his courtesy.

The PRESIDING OFFICER. The Senator from Nebraska.

Mr. KERREY. Mr. President, I ask unanimous consent I be allowed to speak as in morning business for a period of 7 minutes.

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

The Senator from Nebraska is recognized.

Mr. KERREY. I thank the Chair.

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

Mr. DURENBERGER. I yield the floor.

The PRESIDING OFFICER. The minority leader is recognized.

RETIREMENT OF LT. COL. ROBERT P. DEMERS

Mr. DOLE. Mr. President, I want to take this opportunity to commend a good friend of the Senate who is retiring after more than 20 years of dedicated service in the U.S. Army—and more than 2 years of service in the Army's Senate Liaison Office.

Lt. Col. Robert P. Demers has brought to the Senate a depth of experience and insight that has been invaluable. His personal assistance to this body, and to our Nation, will be missed.

Bob entered the Army in 1969 and was commissioned as a second lieutenant. He has had many key assignments during his distinguished military career. These include service in Vietnam, Germany, and Alaska where he commanded various aviation units.

Lieutenant Colonel Demers served in the Army's Military Personnel Center as a personnel assignments officer and distribution officer, as well as the executive officer of the distribution division. His service in the Army's Senate Liaison Office brought him in close contact with many Members of this body. Those who have had the opportunity to travel with Bob, and rely on him like I have, will agree that Lieutenant Colonel Demers has served the Senate, the Army, and the Nation in a superb manner.

Dedicated and hardworking, Bob is not one to allow the spotlight to shine on him. However, I know that he has been highly decorated during his impressive career. He earned the Bronze Star Medal, the Army Commendation Medal, eight awards of the Air Medal, three awards of the Meritorious Service Medal, and recently was approved to receive the Legion of Merit—a final tribute to this fine soldier.

As Bob begins a new career in the civilian community, I would like to express my appreciation for his outstanding service and support. Service and dedication to duty have been hallmarks of Colonel Demers' career. I am sure that my colleagues will join me in thanking Bob and wishing him the very best in his future endeavors.

The U.S. Senate expresses its deepest appreciation—and a grateful Nation extends a heartfelt thank you to Lt. Col. Robert P. Demers, U.S. Army.

Mr. MITCHELL. Mr. President, I join the distinguished Republican leader in expressing the gratitude of all Senators to Colonel Demers for his service to the Senate, to the Army, and to the Nation. Demers is a prominent and well-known name in New England. There are many families in Maine named Demers who I am certain are related to Colonel Demers.

It has been a pleasure for all of us to know him, to have worked with him, to have benefited from his dedication and hard work and his effort to provide good liaison between the Members of the Senate and the U.S. Army. I speak individually but I know for all Senators when I wish Colonel Demers the very best and express our gratitude to him for his service.

MORNING BUSINESS

Mr. MITCHELL. Mr. President, I ask unanimous consent that there now be a period for morning business.

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

TRIBUTE TO JOSEPH P. RILEY, SR.

Mr. THURMOND. Mr. President, I rise today to pay tribute to an outstanding South Carolinian, Mr. Joseph P. Riley, Sr., who passed away on August 8, 1992. Mr. Riley was a man of character, compassion, and courage, and he will be mourned by a large circle of friends and admirers.

Joseph Riley was a man who devoted his life to serving our State. Although he was never an elected official, he served ably and with dedication in a number of appointed positions, and he was very active in community affairs. He also instilled his love for public service in his children—especially his son, Joseph, Jr., who is the able mayor of Charleston.

In addition to his various public service projects, Mr. Riley was a very successful businessman. He founded the Joseph P. Riley Real Estate and Insurance Co. in 1937, and built it into a prosperous and stable firm. His keen business sense earned him a seat on the South Carolina State Development Board, where he served as a director for 10 years. He was also a strong supporter of the Port of Charleston, serving on the State Port Authority for 8 years.

Mr. Riley was always glad to help anyone he could, and he was renowned for his generosity and devotion to the community. Although he never sought recognition for his efforts, he received many awards and honors, including the Order of the Palmetto, South Carolina's highest citation for public service. He was very active in his church, the Cathedral Parish of St. John the Baptist; and was most recently honored with a medal from the Pope in recognition of his outstanding service to the Catholic Church.

Among his many other activities, he was a past president of the State

Chamber of Commerce. He was one of the founding members of the Patriot's Point Foundation, and served as its vice president. He was a member of the board of the U.S. Chamber of Commerce, and a past president of the South Carolina Navy league and the Hibernian Society. He was also on the board of Spoleto U.S.A. In addition, Mr. Riley devoted a great deal of time and energy to various philanthropic organizations, working with the United Fund and the Boy Scouts, among others.

Mr. President, Joseph P. Riley, Sr., was a man of integrity, ability, and dedication. He gave a great deal to our State, and to the people of Charleston, and he will be sorely missed.

I would like to extend my deepest condolences to his lovely wife, Helen Schachte Riley; his son, Joseph P. Riley, Jr.; his three daughters: Jane R. Stelling, Mary R. Chambers, and Susanne R. Emge, as well as the rest of his family.

I ask unanimous consent that an editorial which appeared in the Charleston Post and Courier be included in the RECORD following my remarks.

JOSEPH P. RILEY, SR. LIFE OF SERVICE

For most of the past half century, Joseph P. Riley Sr. had been one of the movers and shakers of this community. As his old friend, U.S. Sen. Ernest F. Hollings recalls, Joe Riley just seemed to know how to get things done.

He also has a family tradition of community involvement. His father, Andrew J. Riley, who died when he was 12, was a city alderman for more than 20 years. His maternal grandfather, Henry Oliver, was a well-known building contractor. When Mr. Oliver died in 1910, the Charleston newspaper noted that although he had never held public office, "he was always willing to contribute his services in a modest way to the promotion of the public good."

In one account of his life, Joe Riley credited his mother, Mary Oliver Riley, with his early interest in civic affairs. Although she was a widow with nine children to rear, he noted that she spent part of nearly every day on community work, including serving as treasurer of the local Red Cross for 30 years.

Joe Riley did his family proud.

While he never held elected office, he was appointed to a number of key public offices by a series of governors, beginning with fellow-Charlestonian Fritz Hollings who named him to the State Development Board in 1959. Sen. Hollings recalls that in those days the Development Board had no tourism division. He made Mr. Riley the chairman of the board's first tourism committee, the forerunner of the state Parks, Recreation and Tourism Commission. That commission, the senator said, now oversees a $4 billion industry in this state.

Ten years later, Gov. Robert E. McNair choose Mr. Riley for an opening on the state Ports Authority. He is credited with, among other things, the construction of the SPA's cruise line passenger terminal. The Legislature named him Member Emeritus of the authority in 1977.

His emergence as a civic leader dates back almost to the days when he began his real estate and insurance business in 1937. By 1949, he was president of the Charleston Chamber of Commerce and heavily involved, he recalled in an interview several years ago, in trying to keep the Charleston Naval Shipyard open. At one point he and a group of businessman took the train to Washington to see President Truman. But Mr. Riley also was to see his good friend, the late 1st District Rep. L. Mendel Rivers become a power on the House Armed Services Committee, and after that, he noted, "We didn't need a president anymore." While Mr. Riley had friends in both political camps, including Republican Sen. Strom Thurmond, over the years he came to be considered one of the late congressman's closest confidants.

Sen. Hollings believes it was through Mr. Riley's association with Rep. Rivers that he began doing what amounted to constituent service. Few people knew, the Senator recalled that "Joe would stay on that phone" for hours helping those in need of jobs and other favors.

His more visible community services including the leadership of dozens of worthy causes, including the Cancer Crusade, the United Fund and the St. Francis Hospital Building Fund. He also was a director of the College of Charleston Foundation and past director of the Coastal Council of Boy Scouts.

His leadership in the local chamber of commerce led to the presidency of the state Chamber of Commerce and the board of the U.S. Chamber of Commerce. He was a national director of the U.S. Navy league, past president of the Hibernian Society and a member of a long list of civic clubs and societies. He also was among the early organizers of the Patriot's Point Naval Museum. He received the state's highest award for public service, the Order of the Palmetto, in 1976.

No recounting of Mr. Riley's life would be complete without noting his devotion to his church and his family. He talked proudly to interviewers of being the first Catholic to be president of the state chamber and worked diligently for the church as an organizer and past president of the Catholic Charities of South Carolina. He recently received a papal medal in recognition of his service to the church and the pope.

He also was quick to give credit for his success to his wife, Helen, and to talk proudly of his four children and 12 grandchildren. When his full life ended Saturday at age 80, he had lived to enjoy the appreciation of his community and his state for his good works and to see his son, Joseph P. Riley Jr., elected to a record fifth term as mayor of the city he loved so well.

NOAA AUTHORIZATION

Mr. PRESSLER. Mr. President, for many years I have had serious concerns about proposals to modernize the National Weather Service [NWS]. For this reason, last year I introduced S. 98, legislation that would require changes in NWS operations not affect the overall performance and quality of the forecasting and warning capability of the NWS. This legislation received wide bipartisan support. In fact, Senators SHELBY, MURKOWSKI, MIKULSKI, BURNS, COCHRAN, SIMON, MCCONNELL, BURDICK, KERREY, RIEGLE, PRYOR, BUMPERS, WOFFORD, SPECTER, CONRAD, KOHL, CRAIG, LOTT, and DASCHLE cosponsored this legislation.

My concern stems from the situation in my home State of South Dakota, as well as similar situations in other States. Currently, the NWS is implementing a plan in South Dakota to replace its existing radar system with a new radar system called Nexrad—for "next generation radar". Under the current modernization plan, the NWS plans to close a vital weather service station located at Huron, SD.

Many States face similar weather station losses. Closing the Huron Weather Service Station raises serious questions concerning the ability of the NWS to provide adequate coverage for an area in central South Dakota near our State Capital of Pierre. Any inadequacy or gap in coverage clearly would produce a degradation in services.

Last year, the Commerce, Science, and Transportation Committee adopted S. 98 as part of the text of the NOAA authorization bill. Inclusion of my bill was to ensure that any decision by the NWS to require the closing, consolidation, automation or relocation of any existing Weather Service Office would receive fair and impartial review by the National Academy of Sciences [NAS] before any actions were taken. Using the information and recommendations provided by the NAS, Congress would then have had a period of 1 year in which to review the recommendations and to enact necessary legislation.

Unfortunately, the inclusion of my bill within the NOAA authorization legislation prompted the administration to threaten a veto of the entire bill. For this reason, we were forced to include much weaker provisions. I am not pleased with this, and will continue my fight for a safe and modern National Weather Service. Specifically, S. 98 would guarantee safe modernization programs by examining the effects of new technologies and the deletion of manpower through automation. I will continue to work for the passage of S. 98. While I am not entirely satisfied with the provisions contained in the NOAA reauthorization bill, I will not oppose its passage. The bill contains many other important provisions. However, NWS operations could be improved and I intend to do all I can to see that happen.

Mr. President, I would like to take this opportunity to thank two people who have assisted the Senate greatly in this effort, David T. Powell, Jr., national president of the National Weather Service Employees Organization [NWSEO] and Lee Pfeiffer, from Huron, SD. Dave Powell has provided immeasurable expertise and assistance in developing this legislation. And for many years, Lee Pfeiffer has provided me with considerable insight and knowledge about the entire NWS modernization process. Mr. President, I ask unanimous consent to place a letter I recently received from Mr. Powell in the RECORD.

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

NATIONAL WEATHER SERVICE EMPLOYEES ORGANIZATION, AFFILIATED WITH MEBA AFL-CIO,
Washington, DC, June 2, 1992.

Hon. LARRY PRESSLER,
U.S. Senate, Hart Senate Office Building, Washington, DC.

DEAR SENATOR PRESSLER: On behalf of the National Weather Service Employees Organization, I want to thank you and your staff, especially Mr. Dan Nelson, for your support and leadership in developing the NOAA Authorization Bill. Your activity on behalf of the American people has made S. 98 a truly bipartisan National Weather Service Authorization provision that will insure public, aviation, and marine safety nationwide.

Senator Pressler, NWSEO applauds you in leading the way in achieving this bi-partisan approach to AWS Authorization language this session of Congress. Working with your staff and majority staffers has been rewarding to NWSEO and reflects well on you as a leader in the U.S. Senate.

NWSEO thanks you again for all your help. We believe that the bi-partisan approach will save many lives. We look forward to working with you in the 103rd Congress.

Sincerely yours,

DAVID T. POWELL Jr.,
National President.

CLIMATE CHANGE

Mr. PELL. Mr. President, I wanted to take just a moment of my colleagues' time to discuss with the majority leader the Convention on Climate Change and the prospects for its consideration in the Senate this fall. The convention was opened for signature at the U.N. Conference on Environment and Development—or UNCED as it is more commonly known—which I had the privilege to attend as a member of the Senate Observer Group. The administration has announced its intention to transmit the convention to the Senate quickly; however, it has not yet arrived and, barring some unforeseen circumstance, it will not arrive until after the August recess.

I know there is a great deal of interest in the convention among many of my colleagues, and it is certainly my hope that the Senate will be able to act on the convention this fall.

However, I think we also need to recognize that both the Senate's and the Committee on Foreign Relations' schedule will be very busy in the 5 to 6 weeks that we will be in session prior to sine die adjournment. The Committee is likely to have a number of pressing issues on its agenda, including: the Open Skies Treaty, possibly the de-MIRVing Treaty, and several bilateral investment treaties with the newly independent states. In addition, the committee will be considering legislation to reauthorize the Overseas Private Investment Corporation. Further, the Senate should act on two items previously reported by the committee: the START treaty and the conference report on the aid package for the newly independent states. I am certain that between now and the time the Senate reconvenes in September, other items will be added to this list. I expect that the Senate's schedule will be under even tighter constraints.

If the Senate is to have any chance at all to act on the convention this year, I think it will be necessary for the President to transmit the convention as soon as possible. Absent this, I am concerned about the Senate's ability to act on the convention prior to sine die adjournment.

I would be interested in learning the majority leader's views on this issue.

Mr. MITCHELL. I appreciate the information of the distinguished chairman of the Foreign Relations Committee. The U.N. Conference on Environment and Development, held in early June, was an historic meeting of international leaders on environmental issues. As the chairman points out, the convention was opened for signature at that time.

I would like an opportunity to fully consider the Convention on Climate Change, but I am concerned that the delay in transmitting the convention to the Senate for ratification may preclude us from being able to consider the matter before we adjourn sine die this fall.

LOAN GUARANTEES TO ISRAEL

Mr. DODD. Mr. President, yesterday President Bush announced that he is prepared to move ahead with loan guarantee assistance for refugees in Israel. I want to commend the President for this statement of support for Israel's mission of humanity, though in my view it is long overdue. I also want to urge my colleagues to move ahead quickly with legislation to implement this critical program.

Mr. President, it was only a year and a half ago that the Israeli population found itself under attack by Iraqi Scud missiles. Since that time, there have been dramatic changes in the political climate of the Middle East. The Iraqi military machine has been weakened. The Soviet Union has collapsed. And Jews have been permitted to emigrate from Syria, proving that not even the harshest regimes are impervious to change.

But some of the most significant changes in recent times, Mr. President, have come from within Israel itself. Since his overwhelming mandate in the June elections, Prime Minister Yitzhak Rabin has rededicated his nation to the mission of peace. In the space of just over a month he has curtailed political settlements in the occupied territories, eased restrictions on contacts with Palestinian leaders, and revitalized the 13-year-old relationship with Egypt.

Yesterday's announcement from Kennebunkport means that Israel will be able to finish the absorption of a million settlers from all over the world. But in my view, Mr. President, this announcement goes farther than that. It puts a definitive end to the tension and distrust that lately has characterized the United States-Israeli relationship. For this reason alone, Mr. President, yesterday's announcement would truly be cause to celebrate.

Mr. President, let me take a moment to explain exactly the way these loan guarantees will operate. This is not a cash grant to Israel, nor is it a loan. Under the loan guarantee program, the United States will simply offer to underwrite loans provided to Israel from private, commercial banks. Should these loans be repaid—and Israel has never defaulted on a loan in its 44-year history—the total cost to the United States taxpayer will be only a very small proportion of the overall program.

Mr. President, we should not believe that the challenges to Israel will be complete once Congress has approved these loan guarantees. Israel still faces many obstacles to stability in the Middle East, from the continuing aggression of its Arab neighbors to the relentless demands on its domestic economy.

But the swift approval of this loan guarantee assistance will help Israel meet these challenges from a position of strength, and not from weakness. And that is the underlying purpose of this essential form of assistance. Mr. President, I hope these guarantees will be approved by this body without delay.

THE SENATE SHOULD STILL ACT ON DEFENSE CONVERSION

Mr. PELL. Mr. President, I call attention of the Senate to an excellent and timely article in today's New York Times entitled "Cutback in Military Spending No Help for Ailing Economy."

The article describes how a 5-percent annual decline in military budget authority since 1990 has translated into an annual decline in procurement of manufactured goods of more than 12 percent over the same 2-year period.

And this drop in economic activity, the article states, may be a major reason why the national economy is stuck in the doldrums of recession.

On the basis of experience in my own State, I can certainly attest to the validity of the Times account.

Unemployment in Rhode Island, which has hovered above 8 percent for all but one of the last 12 months, peaked in the month of June at 9.7 percent, compared with the national average of 7.8 percent.

And during the past year, our problems have been sorely exacerbated by major declines in defense spending. Electric Boat Division of General Dy-

namics has laid off 2,000 workers in Rhode Island and southeastern Connecticut, in the wake of the *Seawolf* cancellation. Raytheon's Submarine Signal Division has laid off a third of its work force of 3,000.

The Times article makes the case, it seems to me, for the sort of comprehensive government response which was endorsed by the Senate's 91-to-2 vote in support of the defense conversion provisions of the fiscal year 1993 Defense authorization bill just last Friday.

As I stated on the floor at that time, the bill contains creative and innovative provisions for transferring military technology and research to the commercial sector, with the intention of compensating for the diminished stimulus of defense spending.

Many of these provisions reflected the thoughtful consideration of task forces on both sides of the aisle who have been laboring hard in recent weeks to devise constructive steps that would help avert the economic consequences reported in the Times article.

It would be a sad loss to the Nation's well being if those efforts are wasted because a parliamentary deadlock prevents further action on the bill in the Senate. I hope that the coming recess will offer an occasion for reflection and reconsideration and that we will have opportunity to act further on this matter when we return.

Mr. President, I ask unanimous consent that an article from the New York Times of August 12, 1992 entitled "Cutback in Military Spending No Help for Ailing Economy" be printed in the RECORD at this point.

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

CUTBACK IN MILITARY SPENDING: NO HELP FOR AILING ECONOMY

(By Louis Uchitelle)

Not since the 1950's has the United States recovered from recession while military spending was falling sharply. But now that the cold war is over, America is struggling to do just that, and finding it difficult.

The precipitous drop in military spending in the last 18 months has eroded an important pillar of the economy, and many economists say that is a big reason that the United States is now having such trouble pulling out of recession.

While critics of military spending have long argued that the money and manpower could be better employed in the civilian sector, virtually no one questions that military spending has served as a powerful source of economic demand.

"There has not been a time when a rise in defense spending would mean more for the economy than now," said Alicia Munnell, a senior economist at the Federal Reserve Bank of Boston. "We are growing so slowly that defense spending can make the difference between a rising unemployment rate and a falling one."

The military budget authorization—$286.7 billion in the current fiscal year, adjusted for inflation—has been falling at more than 5 percent a year since 1990, notwithstanding the fighting in Kuwait. That is twice as steep as the rate of decline in the late 1980's.

But among all categories of military spending, the greatest damage to the economy has come from the cutback in procurement spending: orders placed with factories. It has been falling by more than 12 percent a year since 1990. And under President Bush's budget proposal now before Congress, the sum will drop another 13 percent in fiscal 1993. Procurement has a multiplier effect, creating jobs not only at military contractors but also at the companies that make the consumer goods the well-paid military workers buy.

DRI/McGraw-Hill, an economic consulting service, estimates that this lower level of military spending "probably cuts one-quarter of a percentage point off economic growth," said David Wyss, DRI's chief economist. "That is a considerable drag in a nearly stagnant economy growing at less than 1.5 percent a year."

Nor has the drain ended. Continued cutbacks by military contractors sliced 17,000 jobs in July, the biggest single-month decline in military contractor employment since the recession began in July 1990. Certain areas, like Southern California, are being hit especially hard. And industry executives suggest considerable shrinkage is still to come.

For four decades, military spending has accounted for an average of more than 7 percent of the nation's annual output of goods and services, seldom falling below 5 percent even during earlier cutbacks. Today that level has shrunk to just about 5.5 percent of the gross domestic product, and most projections see it sinking below 4 percent by 1997.

"The impact is bigger than you can see by just looking at the numbers," said Herbert Stein, a senior economist at the American Enterprise Institute.

Two other big cutbacks in military spending have occurred since the cold war began in 1950, after the Korean War and Vietnam. But neither hit the economy with as much force as the current reduction in military spending.

Soaring consumer demand, very much absent today, helped to offset the military cutback in the early 1950's. "It was only after the Korean War that Americans finally decided that we would not go back to the Great Depression, and they let go and spent," said Robert Gordon, a Northwestern University economist.

The continuing Government outlays for Lyndon Johnson's Great Society programs—economic stimulus also absent today—helped to counteract the Vietnam military cutback, which began in 1968. Even so, both cutbacks contributed to brief recessions, in 1957–1958 and in 1970.

This time, military spending actually peaked as far back as the fiscal year 1985, and has been falling ever since. But much of the damage to the economy—and particularly to jobs—did not hit until more recently. As long as the cold war held out the promise of renewed weapons making, military contractors waited out the lean years—as they did in the 1950's and 1960's—keeping their operations largely intact. But with the abrupt dissolution of the Soviet Union, that promise is gone.

Now leading military companies like General Dynamics, Hughes Aircraft, Raytheon and General Electric are shrinking their operations in anticipation of permanently lower sales, and their actions will ripple through the economy as workers lose jobs.

"We don't see the traditional rebound that has characterized downturns in defense spending in the past, and we are preparing ourselves on that basis," said James Cunnane, a senior vice president at General Dynamics, which makes warplanes, armored vehicles and submarines.

In just 19 months, General Dynamics has eliminated 17,000 jobs, shrinking its work force by nearly 20 percent. And there have been similar rapid layoffs across the industry, as military contractors increasingly find themselves behaving as any other company forced to compete for shrinking business would.

"There used to be more contracts and the revenue base was bigger so you could support more costs, but those days are gone," said Sheldon Rutstein, chief financial officer at Raytheon, maker of the Patriot Missile and other military hardware. Raytheon, which held employment in its military operations above 75,000 through 1990, has now reduced its work force to 68,200.

"We are well aware that our competitors are taking similar steps," Mr. Rutstein said, "so we have to be one step better to be in a position to pull in the next contract."

EMPLOYMENT—TIMING OF LAYOFFS COULDN'T BE WORSE

Nowhere is the effect of the more vigorous cutbacks in the military supply industry more evident than in the Labor Department's monthly employment statistics.

Until the summer of 1990, employment at military contractors—the hundreds of companies that receive 50 percent or more of their revenues from sales to the military—hardly fell. The job rolls at these companies, which reached a high of 1.44 million in 1987, declined by only 33,000 in the following three years.

"For a long time, people in the industry thought they would get well, that orders would rise, but the orders clearly were not coming," said Gordon Adams, director of the Defense Budget Project at the Center on Budget and Policy Priorities, a Washington research group.

When the Berlin wall fell and the Soviet Union collapsed, the reductions began in earnest. Beginning in the middle of 1990, employment at military contractors plunged by more than 100,000 a year, falling to 1.19 million last month. That decline—of some 225,000 people—represents 15 percent of the 1.47 million jobs that have disappeared during the current recession, which began in July 1990.

"The timing for such steps could not have been worse," said John E. Bregger, an economist at the Labor Department's Bureau of Labor Statistics. "Just when we need a boost from defense, we get a negative."

Many jobs are being lost in California and the Northeast, but hundreds of communities elsewhere are also affected as the contractors slice orders to their suppliers. General Electric's aerospace division, for example, is shrinking its network of about 2,000 suppliers by 50 percent—using the best supplier of, say, wire harnesses to sell to all of G.E.'s 13 aerospace plants, instead of having each plant buy from a different company.

Compounding the problem, military workers earn among the highest hourly wages in the nation, usually well above the national average of $10.58 an hour. When their jobs disappear, consumer spending, on which a recovery depends, suffers more than if a lower-paid retail store clerk or office worker is laid off.

What's more, the armed forces have shed 160,000 people since 1990, and now stand at just over two million men and women. That is only 1.6 percent of the total labor force—

the lowest percentage since World War II. The cutback has been particularly painful for high school graduates, especially minorities, for whom the armed services have been an important source of jobs. Blacks account for 20.6 percent of the men and women in the military.

TRIBUTE TO MR. SYLVESTER BROOME, JR.

Mr. RIEGLE. Mr. President, there are many individuals who decide during their lifetimes that one of their main goals is to give of themselves to the society of which they are so integrally a part of. One of the clearest examples of such a person was Genesee County Commissioner Sylvester Broome.

Mr. Broome, who passed away on Friday, August 7, was a resident of Flint, MI for over 40 years. Born in Memphis, TN, Mr. Broome came to Flint as a youngster, attended Flint public schools and Mott Community College. He served in the U.S. military and, upon returning to Flint, became an employee of General Motors where he retired as a general foreman in 1991. He served as a Genesee County Commissioner in District 2 for 12 years. During his tenure with the board he served as vice chairman and chairman and currently held the position of chairman of the board's finance committee.

Mr. Broome found time for involvement at all levels and phases of local and county development. He built and shaped groups of people seeking unity and security for the residents of Genesee County and the State of Michigan. He accomplished this by giving countless hours to such organizations as the 911 Task Force, the Valley Area Agency on Aging, Job Central, the federally funded job training agency, the Urban Community Youth Outreach and the Urban Coalition of Greater Flint which he chaired for some time. Numerous organizations, supporting young people, the disadvantaged, minorities, education, political activism, employment, mental health, and the aged, benefited from his leadership. This was not only in an administrative sense but also the sense of a special spirit. In appreciation for his efforts, he received many awards of excellence which were not only county based but often State and nationwide.

Mr. Broome was also a devoted family man. He was married to his loyal and devoted wife, Mancine, for 31 years. They had two children, Vicki Renee and Mance.

Mr. Broome, lovingly and ardently involved in the causes of his fellow African-Americans in addition to all his other public services, was inspired by a past which gave him outstanding hopes for the future. He shared the dreams of many visionary political and religious figures, and saw society as developing and working together rather than as dividing into separate parts. His passing leaves a void in many personal lives and in many lives of those he has been an inspiration.

As Senator from the State of Michigan, I personally experienced the assistance and friendship of Mr. Broome and although this is a great loss I truly believe there is no loss of spirit. Mr. Broome's visions will continue to inspire and instruct those who follow in his steps. The legacy of his guiding ways and his concerns will endure for many generations.

A VISIT TO KAZAKHSTAN, UZBEKISTAN, KYRGYZSTAN, TURKMENISTAN, GEORGIA, MOLDOVA, UKRAINE, BELARUS, RUSSIA, AND LATVIA, TO EXAMINE UNITED STATES ASSISTANCE POLICY IN THE FORMER SOVIET UNION

Mr. PRESSLER. Mr. President, during the July 1992 Senate recess, I led a delegation to 11 countries, Russia, Kazakhstan, Uzbekistan, Kyrgyzstan, Turkmenistan, Georgia, Moldova, Ukraine, Belarus, Latvia, and the United Kingdom. I undertook this challenging schedule to learn more about the effect of United States assistance programs in former Soviet Republics and the Baltic States. In September, the Senate is likely to consider the conference report to accompany the Freedom Support Act, which provides generous United States assistance to states of the former Soviet Union and a considerable downpayment on new United States' commitments to the International Monetary Fund. As a member of the Foreign Relations Committee, I have been designated a conferee on the Freedom Support Act. The conferees will meet in early September. This trip was important in preparing me for work as a conferee.

The Senate passed its version of this legislation on July 2. I voted against reporting the bill from the Foreign Relations Committee, but joined the 76–20 majority to pass the legislation early in July. However, I supported the legislation with mixed feelings.

In this report, I outline a few of my own observations and conclusions. Without reasonable, minimal conditions, I fear any assistance will further line the pockets of the former Communist Party hacks who all too often remain in control and are in a position to prevent funds from going to essential political and economic reforms in the former Soviet empire.

COUNTRY-BY-COUNTRY OBSERVATIONS

KAZAKHSTAN

My visit to the former Soviet Union began in Kazakhstan after a visit to Moscow. I was delighted to be met at the airport by my old friend Bill Courtney, a top-notch Foreign Service officer and Ambassador-designate. I came to know Bill Courtney when we worked together in the early 1970s at the State Department, where I served as an attorney/adviser in the Legal/Economic Bureau. Mr. Courtney, a distinguished officer, is precisely the kind of envoy the United States should be sending to every former Soviet republic—he is knowledgeable, committed, and astute.

Kazakhstan, like the other Central Asian Republics, could become rich if properly developed. Unfortunately, democratic institutions are lagging behind economic opportunity. Last June, about 5,000 protesters took to the streets of Alma-Ata to demand the resignation of the hold-over Communist leadership.

In Alma Ata, I visited the chairman of the Supreme Soviet in Kazakhstan, Mr. Serikvolsyn Abdildin, in his office. This was my first experience with the problem of the one-party 1990 elections. Above Mr. Abdildin's large desk in his spacious office hangs a portrait of Lenin. Mr. Abdildin noted that the current government was elected in a one-party election.

That evening, during a working dinner, I was joined by Mr. Nickolay Akuyev, who chairs the Commission on Law and Order in the Kazakh Supreme Soviet. Mr. Akuyev was very cautious about the prospect for putting CSCE principles and a rule of law into place any time soon. Following the dinner, the delegation met at our hotel with two local leaders of a free trade union, Valentina Sivrukova and Leonid Solomin. Each asked for more direct U.S. assistance to help them organize their union. In addition, they stated that the government is attempting to close down their access to the media and would like to shut down their movement completely. Both complained that the overwhelming influence of former Communist Party officials and Communist bureaucrats—referred to negatively as "chinovniki"—was stifling the new, free labor movement in Kazakhstan. I urge greater attention to the human rights situation in Kazakhstan, specifically in the area of free press and political pluralism.

UZBEKISTAN

The Government of Uzbekistan typifies the problems America and the West face in dealing with the new states of the former Soviet Union. Like so many of the other newly independent states, Uzbekistan claims to support principles of the Commission on Security and Cooperation in Europe, but performance lags behind rhetoric.

The United States should not invite notorious charlatans like President Islam Karimov of Uzbekistan to visit the United States to meet and greet President Bush and high government officials unless and until his regime alters its behavior toward the "Birlik" and "Erk" political movements. I commend the Bush Administration for withdrawing for an indefinite period the invitation for Mr. Karimov to visit this country.

Thugs masquerading as democrats also should not qualify for aid. Deeds must replace words as a standard for U.S. foreign aid. I deeply regret that questionable trials and imprisonments remain the norm for supporters of Uzbek opposition movements.

Visit To Beaten, Hospitalized Dissenter In Uzbekistan

Upon arriving in Tashkent, Uzbekistan, I set about trying to visit two leaders of the "Birlik" political movement who had been brutally beaten and were in the hospital. I was first told they probably would not be able to converse because of severe head wounds and also that it is almost certain that security people would prevent me from visiting if I tried a straightforward embassy

request. On July 7, 1991, John Parker, a Foreign Service officer in Tashkent, and fluent in Russian, and I made a sudden unannounced visit to the local hospital where we believed that Abdurahim Pulatov, the chairman of the popular movement Birlik had received surgery and was being treated. We talked our way past security guards in the filthy hallways of the hospital. When we finally arrived at the room, a commotion ensured to keep us out. Then the head doctor came and said we could go in for a minute, but no pictures.

John Parker had not announced I was a visiting Senator. He had made it seem that we had some message for the beaten victim's family or something such. I do not know who the security guards thought we were, but I am sure they would not have admitted us if they knew our intentions.

Upon entering the hospital room, which was absolutely dirty, we saw two men with black eyes and bandaged wounds on their heads. Both had surgery and had been in the hospital a week to 10 days. They looked much better than they probably had earlier.

I asked Mr. Abdurahim Pulatov, co-chairman of the Birlik, who he thought had beaten him, and he said, unhesitatingly, it was done under the direct orders of President Karimov. He also explained how President Karimov's office carries out such things through a certain part of the Ministry of Justice or Interior, which reports directly to the President's office.

Mr. Pulatov said he had applied for some outdoor public meeting permits and made a speech or two. That was his crime. He was summoned to come into what is the equivalent of our Attorney General's office and was questioned. After leaving the government office, he and his lawyer had been approached by thugs and were beaten up with lead pipes in full view of security people who stood and watched. He was sure the beating was officially ordered by President Karimov, and he was sure it came as a result of his political activity.

We talked to him through our translator, John Parker, for about 10 minutes. Then the doctors came in and said I would have to leave. They asked us to leave a couple of times, as they were nervous about our presence. They did not know exactly who we were and why we were there. At that point, we took John's camera out of his bag and took a picture. The doctors objected, but we took a couple more. I took the camera and put it in my bag in case the security people tried to take the camera away from us, because I might have a better chance of holding on to it. We got out of the hospital without encountering any search or opposition.

Mr. Pulatov was very appreciative of our visit and resolved to continue his political activities if he recovered. His lawyer, Mr. Alimov, was less talkative and seemed to be very sick. I understand that Mr. Pulatov will need more surgery on his head to have a plate put in. His eyes were swollen completely shut at first. They are now open, except he may have some damage in his right eye. But he clearly showed the evidence of a very severe beating which was about 8 days old.

Later, I confronted Deputy Minister of Foreign Affairs, Fatih G. Teshabayev, about the matter and he told me this was an internal issue about which a visiting Senator should not be concerned. He would not deny that such a beating had occurred, and he would not discuss whether orders for it came from the President's office, just that it was an internal matter. I told him that I very much wanted to talk to the President about this. The President was away—ironically, attending a CSCE meeting in Helsinki. So I told Mr. Teshabayev that until this matter was fully settled I would oppose the double taxation treaty with Uzbekistan unless there was some explanation of this beating, and would oppose President Karimov's visit to the United States.

Mr. Karimov has requested an unofficial visit and a meeting with President Bush. Immediately on our return to Washington, I wrote President Bush, saying in part, "I see no evidence that Uzbekistan is making progress and I believe non-humanitarian assistance should be curtailed until this matter is resolved to the satisfaction of the two parties (U.S. and Uzbekistan)." I also have asked for a CSCE investigation of the beating to determine what connection, if any, the Government had with it.

Help Uzbekistan's Travel Industry When Human Rights Situation Clarifies

Instead of sending more U.S. taxpayer funds in aid programs, we can make a difference in Uzbekistan by showing those people how to build tourist potential in Samarkand. Once the human rights situation is clarified, and we are sure that Uzbekistan is abiding by the CSCE principles, private U.S. firms and retired travel executives can help develop Samarkand's great tourist assets. Registan Square is comparable to the Taj Mahal in its grandeur and historic attraction, but Samarkand has been receiving fewer than 20,000 foreign visitors annually. The lower numbers of tourist visits is explained by poor hotel facilities, costly travel, costly services which must be paid for in hard currency and a lack of tourism know-how.

The city is located on the ancient silk road to China. It was used by Alexander the Great in the 4th Century B.C. and Tamerlane in the 14th century. In addition to Registan Square, Samarkand contains a number of stunningly beautiful medreses (Muslim religious schools), a marvelous market area that is ancient and yet reflects the emergence of a freer market, and an excellent museum in honor of the 14th century astronomer Ulugbek.

KYRGYZSTAN

After Uzbekistan, the delegation journeyed to Kyrgyzstan. During two days of meetings there, we heard even more reformist economic rhetoric than in the first two Central Asian countries. In addition to meeting with Kyrgyz government leaders in Bishkek, we discussed the country's potential with an American businessman, Mr. William R. Wilson of Grynberg Resources. Mr. Wilson is seeking to develop the Kyrgyz mining industry.

We visited a collective farm which was short of spare parts, seeds, and other necessities and a brewery where portraits of Lenin and Marx hung in the office of its director. We visited a collective farm in Kyrgyzstan unannounced during grain harvest and talked with some of the collective's farm leaders. They said it was impossible to convert to free enterprise, and that very little conversion had occurred.

It is possible that bilateral agricultural trade can be developed between our two countries, possibly in the wool industry and possibly with inputs such as improved seed, breeding stock, and agricultural equipment. Of course, any such trade would depend on dramatic moves away from a socialized command economy. Despite economically sensible rhetoric on privatization, even Kyrgyzstan has a long way to go to match minimal conditions for United States assistance.

During my stay in Kyrgyzstan, as in a number of other former Soviet republics, I sought out poets and writers and held a luncheon in their honor. These people are often found among the democratic vanguard in the transition away from Communism. For example, the chairman of the "Erk" political movement in Uzbekistan is a poet. Writers and poets in Kyrgyzstan expressed considerable concern about the future of their country. At each stop, I asked their opinion of one of my friends, Joseph Brodsky, the former Poet Laureate at the Library of Congress. Everyone looked up to him and could not understand why he was not better appreciated during his tenure in that position. I frequently have learned useful information during my morning jogs with local citizens. It is also an excellent way to understand a city's personality. In Bishkek, I ran with a young Kyrgyz of Russian descent. Although he spoke the Kyrgyz language, he expressed concern that some people of Russian background might not be able to adapt easily to post-independence laws, but that they would also feel out of place in Russia itself.

Rights Of Jews In Central Asia

During my visit, I met with several Jewish leaders in the Central Asian republics. One illuminating discussion was held late at night with the head of the Jewish community in Bishkek, Kyrgyzstan, Mr. Alexander Katsev, chairman of the Department of Philology of Bishkek University.

Mr. Katsev gave me permission to use his name. He was fearless. Some of the other Jewish leaders we met with in other countries admitted they did not raise the issue of the treatment of Jews with Mrs. James A. Baker during her recent visit for fear there would be reprisals in their communities. Mr. Katsev allowed no such fear to stop him.

He told me there are 9,400 Jews in Kyrgyzstan, of whom 4,700 hold passports identifying them as Jewish. In the Soviet Union, citizens had passports by nationality, and this practice continues. He said the Jewish community is very frightened. "When you do not have enough to eat, you blame someone—usually Jews," he said. He said rumors were being spread that "Americans and Zionists are buying Kyrgyzstan."

Mr. Katsev continued that because 2,000 Jews have left since 1989, people mistrusted Jews and hesitated to do business with them. Around 6,000 individuals identified themselves as having Jewish passports in 1989. Today that number is only 4,700.

The Jews in Kyrgyzstan are Bukhara Jews as opposed to Ashkenazi Jews. That is, they migrated to what is now Bukhara, Uzbekistan in the 10th Century. They are not descendants of an Old Testament "lost tribe." They speak and worship in Farsi rather than Hebrew. Mr. Katsev said there has been a law on the books since 1929 stating that learning Hebrew is illegal.

The Jewish community is fearful of the new Kyrgyzstan Constitution, because it makes Kyrgyz the official language. "Most Jewish people do not speak Kyrgyz and thus will be barred from many jobs," he said. Mr. Katsev asked me, "Can we count on your help?"

I said I would publish any human rights violations in CONGRESSIONAL RECORD. I asked Mr. Katsev to send me periodic reports, and I said I would publish them here in the CONGRESSIONAL RECORD. Mr. Katsev suggested that the American Jewish community estab-

lish an "Adopt-a-Country" program wherein Jewish or non-Jewish people from the United States would systematically visit the Central Asian countries to monitor and report to the outside world what is really going on. "We are afraid," he concluded.

I said that I would fight in Congress to place human rights conditions on any U.S. aid. I would try to hold up aid if there were more human rights violations. I would write a memorandum to President Bush. I would write a memorandum to the American Jewish community leaders on the Adopt-a-Country proposal. Kyrgyzstan Jews continue to flee to Israel and the United States because they are mistreated.

TURKMENISTAN

The least politically reformed of any of the Central Asian republics is Turkmenistan. A Stalinesque cult of personality seems to surround the President, Saparmurda Niyazov, whose portrait is in all government offices and who is reverentially referred to as "the President," or "our leader." He was "voted" president with a 99.5 percent participation rate in a one candidate election. To paraphrase the Chairman of the Mejlis (Parliament), the "people do not want a party other than the Democratic Party of Mr. Niyazov."

The government of Turkmenistan has taken the popular course by coming out against environmental degradation. Much of the harm to Turkmenistan's environment has come through cotton production and the disastrous routing of the Amu Darya River to make the Kara Kum Canal.

Much of the water from the mountains of Turkmenistan is now diverted to Uzbekistan and the Aral Sea. The Turkmen government would like to re-route the water to the benefit of Turkmenistan. Obviously, this could lead to trouble with Uzbekistan. On a personal note, I would add that during my first race for Congress in 1974, I opposed construction of the Oahe Project near the Missouri River in South Dakota and compared its potential for environmental degradation with what has occurred as a result of reckless irrigation project construction in Central Asia.

Turkmenistan is close to the Iranian border. As in other Central Asian republics, there is a lively competition between Turkey and Iran for economic and political influence. The selection of a route for a new oil pipeline will be the deciding factor in determining who will have the most influence on Turkmenistan. There are two alternative routes to get Turkmen oil to port: (1) directly through Iran into Turkey; or (2) across the Caspian Sea, through Georgia, Armenia, and Azebaijan.

The former option is preferred by the Iranians and, in the short term, would probably be less expensive to build. The latter option is preferred by the Turks, since it would economically help their allies the Azeris, even though it would be more costly. Given the current Armenian-Azeri conflict, running a pipeline through both these states would open the possibility of an economic blockade. The decision likely will be based on where Turkmenistan gets its financing for the canal—either for Iran, Turkey, Pakistan, or Saudi Arabia.

One of Turkmenistan's most abundant exports is natural gas. However, since Turkmenistan and Russia require payment in hard currency, many buyers cannot pay. The United States should monitor the situation to assure the gas is not used as a weapon to reward or punish other states of the former Soviet Union. The Turkmen Government works quite closely with the Russian government. In fact, Russian military forces in Turkmenistan will be under both Russian and Turkmen control—an unusual arrangement.

Turkmen government officials claim that visiting American, Turkish, Italian, and German companies are pleased with Turkmenistan's pledge to protect investments. Turkmenistan plans to introduce its own currency and expects it will have enough hard currency reserves to make its currency convertible. Turkmenistan might adopt a Chinese model economic system in which investment is encouraged, but the government will retain, at least for the short term, the ability to monitor investments and exports.

GEORGIA

I am left with a sense of great unease after my visit to Georgia. Eduoard Shevardnadze, the former head of the Communist Party and KGB in Georgia and former Foreign Minister of the now defunct Soviet Union, is considered the best hope by those living in the conflict ridden nation of Georgia. Yet he seemed very reluctant to oppose the continuing presence of Russian troops in his country. This was especially surprising since, on the day before I met with Mr. Shevardnadze, the Governor of the Gori Region had told me a frightening tale of being shot at by Russian troops in the streets of his city.

There are really three conflicts in Georgia—within Georgian politics, within Ossetia, and within Abkhazia. Each contributed to the rise to power of Mr. Shevardnadze after a coup in March of this year. There currently is so much instability that a midnight curfew is in effect. This kind of control might easily slide into some form of a police state, imposed by a strong Georgian military force. The U.S. should make every effort to ensure the Georgian military does not get out of control.

Both President Shevardnadze and Prime minister Sigua told me they believed a coup was the only way to achieve change in Georgia. they cited the paranoia of the elected President, Zviad Gamsakhurdia, as an obstacle to political pluralism in Georgia. Unfortunately, the coup meant that democracy in Georgia died while still in infancy. Despite justified criticism of Gamsakhurdia, he was an elected official who should have been deposed by political means. In the aftermath of the coup, a military council was formed which led to Shevardnadze's return—this time as a democrat.

Elections with international observers are now scheduled for October 11, 1992, according to Shevardnadze. However, the persistence of Russia's military, the breakdown of law and order, the stifling of fundamental human rights, and the possibility of a police state frightens opposition forces who wish to participate in such elections.

During my time in Georgia, I was surprised at being unable to find anyone opposed to Mr. Shevardnadze. With his great international connections, most considered him irreplaceable. Most agreed they really had no choice but to hope that Shevardnadze would remain faithful to the ideals he now espouses. However, questions continue to surface about the current Georgian government's commitment to human rights and democratic institutions—such as free press and free association.

Possibilities for bilateral agricultural trade exist in Georgia, assuming a restoration of democratic elections. Georgia is critically short of wheat and other staples, such as butter. During the Soviet era, thousands of acres were devoted to a few crops as part of a centralized control system. Now Georgia must convert to private agriculture if it is to produce sufficient basic foodstuffs to feed its people. Whenever possible the U.S. should look for opportunities to assist in this regard.

MOLDOVA

In Moldova, I was told by President Mircea Snegur that Russian President Yeltsin agreed to negotiate withdrawal of Russian forces from the Transdniestria region, one day after the Senate adopted my amendment calling for immediate withdrawal of the Russian 14th Army from the conflict in Moldova.

Congress can make a difference. If we take a strong stand, U.S. goals can be met. The United States must take a strong stand on Moldova. This should include support for international supervision of the ceasefire in Moldova by neutral, Western observers.

Unfortunately, following my departure, President Snegur agreed with Russia on July 22 that Russian, Moldovan, and self-proclaimed "Dniester" officials would monitor the ceasefire. This is incredible. The very forces involved in the fighting will be given equal status to monitor a ceasefire—a formula for failure and continued conflict.

This precarious solution has two costs for Moldovan self-determination. First, Russian separatist elements in the Dniester region will be given a special status within Moldova, permitting the Dniester region the right to leave Moldova if Moldova undergoes a change in sovereignty—that is, reverses the consequences of the Nazi-Soviet Pact by rejoining Romania. Unfortunately, the "peace" document says nothing about a peaceful change in leadership in Transdniestria—including real elections without the specter of Russian Army threats and surveillance. The key to the solution in Moldova is for people to have an opportunity to work out issues themselves without manipulation by the governments involved.

The second cause for concern arising from the agreement is that it seems to have given President Snegur a green light both to push for the Commonwealth of Independent States treaty before his Parliament and to intensify his criticism of opposition leaders and protesters in Moldova.

The root cause of the current conflict in Moldova is not ethnic; rather, it has arisen from the presence and involvement of the Russian Army. While I believe that President Yeltsin would like to remove his armies from foreign lands, thereby reducing needless defense spending, his encouraging rhetoric does not match the bellicose statements of his generals. Addressing a Supreme Soviet session of the rebel "Dniester republic" on July 28th, Major General Aleksandr Lebed, the new commander of Russia's 14th Army in Moldova, stated that his Army cannot withdraw from Moldova for at least another 15 years. I do not understand why a representative of the Russian Army would address a group that encouraged war and insurrection only a week after a so-called cease fire and peace settlement was reached.

The history of Moldova is complex. Moldova did not exist as an independent state until last year. However, as a nation, the territory of Moldova has existed for centuries. In order to learn more about Romanian and Moldovan history, I met with the Chairman of the Moldovan Parliament, Dr. Alexandru Mosanu. During our meeting, he outlined the incongruity of Moldova becoming too aligned with Russia when its natural, historical inclinations and experience are Western. As the head of Parliament, he has opposed parliamentary consideration of a

treaty to join the Commonwealth of Independent States. His comments were echoed by Mr. Valeriu Matei, the Chairman of the Mass Media Committee of the Parliament, who as an historian can document the difficulties imposed on Moldova by outside invaders, including the Ottoman Turks, the Czarists and then Soviet Russians.

I also met with Iurie Rosca, the President of the Executive Committee of the opposition Christian Democratic Popular Front. The participation of the Popular Front of Moldova in the development of human rights and political freedom is vital. Mr. Rosca called for the removal of Russian forces, and release of all prisoners, many from his political party, who remain in captivity on the left bank of the Dniester River. The regime in Tiraspol has waged a no-holds-barred campaign to imprison, harass, or murder Moldovan policemen on the left bank, as well as anyone else considered an enemy of the Transdniester regime.

As an advocate of political pluralism in the states of the former Soviet Union, I believe it is important for the future of democracy in Moldova for groups such as the Christian Democratic Popular Front to continue their good work without harassment. The Popular Front has played a critical role in defining Moldova's freedom from the Soviet Union over the last couple of years. Many of the Front's positions recently have been adopted by new converts to democracy in the Moldovan government. I hope the Popular Front and other democratic forces will be able to function in an open society.

I also urge full respect by the Moldovan government for freedom of speech. This included prohibiting censorship of political opinions and permitting time on television for opposition groups.

I also am very concerned by the refugee situation in Moldova. At the time of our trip, 43,370 refugees had fled the left bank and Bendery and now seek shelter in Moldova. As of July 22nd, the number had grown to 50,377. Ms. Ludmilla Scalnyi, the President of the women's association, "Dacia," sponsored a roundtable discussion with representatives of Ukrainian, Russian, and Moldovan populations in Transdniestria. The panelists spoke of the devastation in their lands and described how the rebel regime of that region is not working to protect minorities. They said it exploits them in a cynical grab for power, as if it yearned to revive the old Soviet Union. These women of Dacia believe that the true story of devastation at the hands of this regime is not being heard in the West.

I urge international human right groups to meet with these women to hear their stories of devastation and to investigate the questionable human rights record of the Transdniester regime.

UKRAINE

Our delegation to Kiev arrived the day after President Kravchuk's dismissal of Volodymyr Lonovoy, the Minister in charge of economic reforms. Sadly, Mr. Lonovoy was dismissed for criticizing President Kravchuk's snail's-pace view of economic change and for moving too quickly on economic reform recommendations made by the IMF and others. Mr. Lonovoy was replaced by Valentine Simonenko, a former Communist and the former economic reform chief for the ex-Soviet Union. Upon assuming office Mr. Simonenko stated, "I am categorically against any help from the West."

Quite frankly, such disdain for economic policy reform assistance is more than a little disappointing. What is Mr. Simonenko complaining about? Does he really not want U.S. help? Or would he prefer the IMF pull out and make American business leaders pack their bags and go home?

The old adage, "what goes around, comes around" appears appropriate to describe the current situation. Last December, the people of Ukraine had a choice among several non-Communist candidates. Instead, Mr. Kravchuk was chosen for his ability to mediate between Russia, Ukraine, and the West. Unfortunately, old habits die hard and current leaders in many former Soviet republics are capable of going only so far. Perhaps we should not be disappointed in their performance. However, this Senator is.

Whatever the United State does, we should not be in the business of building these leaders up in the estimation of their people. We should call a spade a spade.

BELARUS

The people of Belarus long have been misunderstood. During the Soviet period, they were the most assimilated of all—their Slavic dialect has all but disappeared. Belarus officials always were considered the most orthodox of communists, and for this loyalty, Belarus was given a seat at the United Nations. Belarus sovereignty during the Soviet period was more apparent than real.

Following Lithuania's declaration of independence on March 11, 1990, Soviet President Gorbachev stated that Lithuania could not be independent unless it ceded its southern territory to Belarus. Last year, further territorial claims on Lithuania were made by the Belarus foreign minister. Such claims were later withdrawn and Lithuanian-Belarus relations progressed in a more positive direction under non-Communist President Shushkevitch. Nevertheless, there is a great search for national identity within Belarus after years of Russian, Lithuanian, and Polish domination.

Following the Chernobyl disaster of 1986 anti-nuclear organizations flourished. However, as in their Baltic counterparts, these movements had as their real goal national self-determination and the end of bondage to the Soviet Union. The largest of these groups is the Belarus Popular Front.

Shortly before my arrival, the Popular Front of Belarus organized a petition drive which collected almost half a million signatures to force a referendum on new elections. As a visiting U.S. Senator, I endorsed this call while in Belarus because of the urgent need for new elections throughout the former Soviet Union and because I question whether the true will of the people is reflected in the current Belarus government.

During my visit to Belarus, I felt it was especially important to visit one of the few industries in the former Soviet Union that exports to the United States—the Belarus Tractor Factory. This huge, dilapidated factory—using assembly line methods that seen not to differ much from Henry Ford's day—produces a tough, simple tractor that successfully competes in the American market. I have no doubt the factory could be sold to private investors, or even be reorganized as a joint venture

Meeting with the company's top management, I was struck by the presence of a large bust of Lenin in the hallway and a Lenin photo in the General Manager's office. When I asked about privatization plans, the manager suggested that some of the stock would go to some of the employees, but he implied that state control was the developmental path he still preferred. Given the crying shortage of reliable farm equipment and parts, it occurred to me that this plant—one of the few successful non-military manufacturing efforts in the former Soviet Union—still seems to be mired in the socialist mindset.

LATVIA

Despite a Russian pledge to the Latvian government on February 1, 1992, to agree on troop removal and state the number and composition of Russian controlled forces in Latvia, Russian troop levels in that country are not decreasing. At the same time, rhetoric from members of the Russian government, including Defense Minister Pavel Grachev, to the effect that Russia does not rule out the use of force to protect the Russian minority, ominously escalates. Relevant documents and articles on this communique were submitted with my remarks to the Senate on July 22, 1992.

During my visit to Latvia, I met with numerous government officials and representatives of the Russian military. I heard again the questionable Russian argument regarding alleged Latvian mistreatment of minorities. The world is now being told that the Russians are the peacemakers, the peacekeepers and the persecuted. At the same time, it is possible that Latvian magnanimity toward non-military Russian residents of Latvia might begin to heal old wounds. Indeed, throughout Europe there is a desperate need for rivalries to be brought to a peaceful end.

I was the first Westerner allowed to visit the Russian Phased Array Radar facility in Skrunda, Latvia. Although the Commanders of the base were courteous and provided a lunch to our party, they claimed they could not get permission from their superiors to allow me to walk through the facility.

I was struck during my visit by statements from the Russians that it might take 10 to 15 years for them to leave Skrunda. This parallels the statements of General Lebed in occupied Transdniestria. It is my impression these timetables reflect the view of the military high command of Russia. Only Russian political leadership, encouraged by foreign actions, will shorten the time Russian forces are stationed on foreign soil.

Skrunda, according to its Russian commanders, is a defensive facility to protect against incoming missile attacks. But the end of the Cold War surely means, at a minimum, that threat no longer exists—if it ever did, Certainly, Sweden, Norway, and Finland pose no threat to the Russians. Unquestionably, they are no threat to an independent Latvia.

I called on President Bush and Secretary of State Baker to defend the rights of the newly independent states. The bottom line in all of these states is that Russian military forces must be removed expeditiously, consistent with the language of amendments I offered and the Senate adopted during consideration of S. 2532, the "Freedom Support Act."

During my discussions with Janis Jurkans, Latvia's Foreign Minister, and Andrejs Krastins, Deputy Chairman of Latvia's Supreme Council both stated that territorial disputes and claims of ethnic animosity are coordinated disinformation efforts of the Russian KGB. Mr. Jurkans, for example, stated that there are 76 people in the Baltic department of the Russian KGB working to sow seeds of instability there. I believe that most Latvians, and citizens of the other Baltic states, will readily accept citizens of Russian background who invest their loyalty where they live.

However, I am concerned that some Russians in the former Soviet Union and the

Baltic states wish to remain Russians, with the special rights they had under Communism. Russian efforts to justify a military presence and protect some Russian imperialist agenda must be opposed. Still, in the current circumstances, I cannot but wonder what effect might result from greater magnanimity by independent governments towards resident Russians who are not associated with Russian efforts to control or subvert the Baltic states. I found much good will in the Baltic states. My personal hope is that the collapse of an evil empire will inspire the people of independent nations to negotiate a peaceful accommodation with the ordinary civilians who were sent by the imperialists to colonize their territories. It is tough to turn the other cheek, but economic circumstances in the former Soviet Union and the Baltic States may be improved by altruistic behavior. Just as Russians should not exclude Jews, non-Russians should not exclude Russian civilians who want to play a positive role in their nations' future.

While meeting with Foreign Minister Jurkans, I expressed my personal hope that—when Latvia writes its laws—it will demonstrate magnanimity, tolerance and love towards even Soviet-born residents who are loyal Latvians. This will be easier after all Russian troops are gone. Mr. Jurkans said he personally believes in a liberal citizenship law—the zero option—similar to that of Lithuania. He has expressed himself publicly on citizenship. My hope is that no loyal Latvian of Russian origin will be excluded from voting or owning property.

RUSSIA

Under provisions of the "Freedom Support Act," Russia is likely to receive the lion's share of American cash and credits. I believe that relatively more of our foreign aid and credits should go to some of the other countries of the former Soviet Union.

At the beginning of my visit to the region, I was privileged to share a working dinner with a delegation from the Tax Foundation in Washington. Our hosts, Dan Witt, executive director of the foundation, and David C. Jory, vice president of Citicorp/Citibank, joined other United States business leaders in a seminar with Russians to discuss a fair tax policy emphasizing the following principles: stability, reliability, simplicity, clarity, economic neutrality, the need for open discussions of policy, free and fair taxation of international transactions, moderate tax rates, and uniformity of tax policy at all levels of government. Were Russia to follow the recommendations of the Tax Foundation, it would progress greatly.

Hard working, realistic Americans from the private sector can do more with technical assistance and solid advice than armies of consultants from the State Department or the Agency for International Development. I highly commend the Tax Foundation for its leadership in these efforts. I hope many other principled American business leaders can become active throughout the former Soviet Union in demonstrating how United States know-how and experience with free institutions are the best investment this country could make in overcoming socialism.

UNITED KINGDOM

At the end of my trip to the former Soviet Union, I felt it important to discuss what I had learned with officials of the British government in London, including three Foreign Office officials: Kevin Tebitt, Head of the Economic Relations Department; David Logan, Assistant Undersecretary; and Rod Lyne, Head of the Eastern Department. They were most interested in analyzing my trip. Great Britain has yet to establish diplomatic posts in most of the former Soviet Union.

There are fruitful areas for cooperation between our two countries as we jointly address the needs of the new states of the former Soviet Union. For example, the United Kingdom supplies 10–15 percent of European Community assistance to the 12 former Soviet republics. The special Baltic initiative, monitoring of human rights violations through CSCE, and the development of democratic institutions in states without a history of such institutions are examples of some of the ways in which the U.S. and Great Britain could work in concert.

The major conclusions of my trip are:

CONCLUSION I: EX-COMMUNISTS STILL HOLD POWER—THE MORE THINGS CHANGE, THE MORE THEY STAY THE SAME

With the exception of the Baltic States, democratic hopes are far from being fulfilled in most of the former Soviet Union. In country after country, I found that the 1990 one-party elections had done little more than shuffle titles of institutions and shift around a few people who had been Communist Party apparatchiks. In most of the non-Baltic countries I visited, some political opposition exists, but it is treated with disdain and contempt by leaders elected in 1990, or it is aggressively opposed by local governments.

All of the countries of the former Soviet Union have signed the Helsinki Principles of the Commission on Security and Cooperation in Europe (CSCE). But few of the nine former republics I visited are paying more than lip-service to the CSCE's cornerstone concepts of free press, free association, tolerance of political opponents, and basic rules of fair play.

CONCLUSION II: RUSSIA SHOULD KEEP ITS WORD BY QUICKLY REMOVING ITS MILITARY FORCES AND FACILITIES FROM FOREIGN TERRITORY

For years I have been calling the Senate's attention to the vexing problem created by the continuing presence of Russian forces and facilities in the Baltic states, Moldova, Georgia and other portions of the former Soviet empire. Russian President Boris Yeltsin made some encouraging comments when he attended the G–7 Summit in Munich in July. However, Russian military commanders and even officials of the Russian Foreign Ministry have failed to embrace his pledges. Russian troops are neither peacemakers nor peacekeepers. Their presence is an intolerable imperialist leftover.

CONCLUSION III: THE BALTIC STATES DESERVE SPECIAL INCENTIVES

Arriving in Latvia after visiting nine states of the former Soviet Union was literally a breath of fresh air. Only in Lithuania, Estonia, and Latvia, in my opinion, is there currently a realistic chance that US. assistance at this time might succeed. Congress should put special emphasis on expanding effective aid to the Baltic states.

CONCLUSION IV: FOREIGN INVESTORS CAN PROFIT FROM PARTNERSHIP WITH FORMER COMMUNISTS IN THE FORMER SOVIET UNION

Americans want to see free enterprise and private property ownership flourish in the former Soviet Union. However, former Communist party functionaries—by virtue of the one-party 1990 elections—have traded privilege based on party loyalty for profiteering based on the national assets of the new republics. Everywhere, raw materials and national assets have somehow come under the control of the former Communist leaders. These leaders use their current positions to generate profit for themselves and their associates. These countries have no conflict of interest laws.

This unusual form of privatization has little to do with the kind of free enterprise most Americans favor and that the former Soviet Union badly needs to promote economic growth and development.

At present, U.S. and other foreign investors must respond to a rapidly changing legal framework. This framework will become institutionalized only if the United States and other donor nations insist that a rule of law be established before taxpayer assistance is granted. Without such rules, numerous decrepit state enterprises are likely to remain in business, replete with photos of Marx and Lenin in the offices of company leadership. Many unprofitable enterprises must be allowed to die. One of the first tasks facing any investor is to find ways to bring into play Western business practices in the former Soviet Union.

CONCLUSION V: ARMED CONFLICTS REQUIRE NEUTRAL INTERNATIONAL OBSERVERS

Throughout the former Soviet Union a number of armed conflicts exist as Russian troops or surrogate forces attempt to seize and hold territory against the will of newly independent states. As I have already noted, the mere presence of Russian forces is a provocation. In Georgia, Moldova, and the Baltic states, actual or potential conflicts should be resolved by internationally supervised talks.

It is not enough for the Russian-controlled Commonwealth of Independent States (CIS) to supervise talks. It is wishful thinking to believe that CIS observers can impartially monitor withdrawal of foreign troops, ceasefires or negotiated agreements. Only CSCE, UN or other international bodies are impartial enough to be entrusted with these responsibilities.

CONCLUSION VI: NEW ELECTIONS ARE NEEDED THROUGHOUT THE FORMER SOVIET UNION

I previously referred to the one-party elections of 1990 that brought sham democracy to most of the former Soviet republics. The U.S. State Department knows that the governments installed by the 1990 elections are essentially illegitimate and undemocratic. Notable abuse of human rights in Uzbekistan and elsewhere, combined with the need for new blood in the leadership of all states, require that new elections be held as rapidly as possible. Ideally, new elections should occur with international observers present.

Unfortunately, however, new elections alone may not make a great difference. After decades of active suppression, political opposition has not made headway at the grassroots level. Many people remain afraid of going against the current leadership who were once brutal Communist party leaders. People are intimidated by the current media and leadership arguments that some "good old boy" network is the best way to improve their way of life. Additionally, news does not travel very quickly, especially in agrarian communities. Full and accurate reporting is hard to find and is often stifled by the new governments.

Until a climate conducive to free elections is created, I do not have confidence that U.S. assistance can be spent wisely or that boatloads of IMF credits will be able to make a positive difference.

CONCLUSION VII: CSCE SIGNATORIES MUST ABIDE BY CSCE PRINCIPLES

Much United States policy towards Russia and the rest of the former Soviet Union

seems to depend on smoke and mirrors. Russian troops are one example. Another is the willingness of our country to accept rhetoric about freedom and CSCE principles as a replacement for demonstrable action. Freedom and democracy are recognized by practices, not words. Mere lip-service to the principles of free speech, free association, free press, and other key concepts are meaningless if not combined with concrete actions. During consideration of the Freedom Support Act in the Senate, I offered several amendments and participated in a number of debates. These efforts were directed at determining whether U.S. assistance could make a difference and what minimal conditions Congress should add to protect the American taxpayer's investment. Adoption of such conditions in the Senate bill justified my support for the legislation.

CONCLUSION VIII: AMERICAN EMBASSY STAFFS SHOULD FORCEFULLY ADVOCATE HUMAN RIGHTS AND FREE ENTERPRISE PRIORITIES

During my visit, I found a wide range of Foreign Service Officers assigned as Ambassadors-designate and staff members. Some highly effective officers, such as William Courtney, James Kenney, Jackson McDonald, Tom Niblock and John Parker, impressed me as the kind of people who are able to forcefully articulate American positions on human rights, democratic development, and free enterprise. I regret to report that I found several career officers who seemed resentful of their assignments, others who showed symptoms of "clientitis," and additional officers who seemed to have less than an ideal understanding of the pioneering and important role they could play in these new states.

American embassies and United States Information Service posts must provide the vital link between people suppressed for decades by Communist tyranny and the country many of those citizens admire most—the United States. However, I found some officers who were even concerned when I asked to meet with political opponents of the government in power.

Consistent, aggressive representation of American interests is the key to building fruitful relations with the people of the former Soviet Union. In my opinion, the people of these new states are infinitely more important than their governments.

CONCLUSION IX: U.S. SHOULD ENCOURAGE REALISTIC COMMERCIAL RELATIONS WITH NEW STATES

After meeting with U.S. businessmen during my trip, my desire to see stronger U.S. business involvement in the new states has been strengthened. This should lead to increased opportunities for agricultural trade, possibly on a barter basis.

For years, Czarist Russia and then the Soviet Union teased foreign investors with prospects of entering their large market. Unfortunately, unless an investor was willing to play by their rules of the game (including crushing taxes, restrictions on profit repatriation, and cozying up to the socialist elite, among others) business as usual meant no business.

Russia will have to make great changes unless it wants to be characterized once again as the big tease of the East—offering the prospect of new markets with vast raw materials and an educated labor force without living up to these promises. I believe in the ability of U.S. business entrepreneurship (especially small and medium-sized businesses) to help transform authoritarian societies into pluralistic societies. Thus, I am convinced the United States should move forward with negotiations on bilateral trade treaties, bilateral investment treaties, and double taxation treaties with the new states. However, perhaps with a few exceptions, ratification of such agreements should be contingent upon significant progress on political, economic, and human rights criteria.

The United States has concentrated most of its efforts in the commercial field on Russia. The United States will have Foreign Commercial Centers in Moscow, St. Petersburg, and Kiev, and will handle commercial inquiries from other states from these posts. It may prove to be difficult to gather and use information from the other states from offices in Russia.

Last year, the United States and the Soviet Union signed a trade agreement granting reciprocal most-favored-nation (MFN) trading status contingent on the enactment of emigration laws by the Supreme Soviet of the Soviet Union. Russia fulfilled the criteria the Soviet Union refused to adopt and has been granted MFN. All other former Soviet republics are eligible for MFN once they adopt similar emigration legislation.

MFN has been granted to Armenia, Moldova, and Ukraine. The Stevenson and Byrd statutory prohibitions on OPIC and Export-Import Bank (Eximbank) assistance have been lifted. OPIC benefits have been extended to U.S. businesses operating in Armenia, Belarus, Georgia, Tajikistan, and Turkmenistan. Eximbank credits for the purchase of U.S. goods and services have been extended in Armenia, Belarus, Kazakhstan, Russia, and Uzbekistan.

The Baltic states enjoy MFN, GSP, OPIC, and Eximbank benefits. I urge ratification of bilateral investment and tax treaties with these three nations. In addition, the United States Trade Representative is negotiating investment agreements with 12 nations of the former Soviet Union. The Senate Foreign Relations Committee marked up the U.S.-Russia treaty on August 6, 1992, and soon will consider a U.S.-Kazakhstan treaty.

I must express reservations about these treaties. As I have already stated, rhetoric in the political arena in Russia does not always match reality. The same goes for rhetoric versus reality in economic matters. The investment treaty with Russia permits continuation of its state-planned economic system, with a phased transition to a market economy. The United States should guard against the institutionalization of Russian bad habits.

Several days after my departure from Moscow, the Russian Parliament adopted new tax legislation. Unfortunately, these new tax laws do not go into effect until January 1, 1993. Additionally, U.S. investors continue to face a myriad of complicated, often conflicting, tax laws. Businesses and individuals have to deal with a variety of taxes, including those on individuals, corporations, profits, and exports. The combined tax burden might prove too much to sustain viable foreign investment.

The new Russian tax laws represent some progress. Yet, I continue to feel uneasy over the fact that the leading proponent of reform, Yegor Gaidar, was the first to lobby against a decrease in the Russian VAT tax based on his belief that high taxes help reduce inflation. This questionable assumption seems to be shared by the IMF.

New tax laws in Russia and the other new states might well consider the following suggestions:

(1) Elimination of mass government subsidies to albatross companies and state enterprises. Continued Russian subsidies are a temporary panacea, but are a detriment to long-term economic health. The June 21st increase in government subsidies, despite a 2.5 trillion ruble debt load, is a case in point.

(2) Enactment of real privatization measures, including privatization of companies that will hold real interest for foreign investors. Privatization must also include steps beyond selling shares to workers. This practice does not inject enough new capital into the system, although it gives workers a sense of ownership and a stake in the future. Measures should also include private ownership of real property.

(3) Establishment of a modern banking system, including laws permitting repatriation of profits, competition, choice of banks for foreign investors, and a convertible ruble with one market exchange rate.

(4) Enactment of conflict of interest laws which separate government officials from their often overwhelming desire to make changes which profit themselves but damage overall economic progress.

(5) Creation of realistic valuation procedures for all types of property that will not be prejudiced against foreign investors.

This list is by no means comprehensive. Above all, tax laws will not matter if there is not enough profit to tax.

Many difficult choices face the Russian government and the Russian people. Governments must balance the need to keep people at work with the need to reconfigure the moribund economic structure and eliminate the parastatal business dinosaurs. People must balance the desire to rely on the old mechanisms which made decisions for them with the often frightening prospect of self-reliance. Failure to take these steps will enhance the deterioration of the current system and may create a 1992/1993 winter of discontent worse than last year's.

CONCLUSION X: INTERNATIONAL LAW CONCERNING HUMAN RIGHTS MUST BE OBSERVED

I agree with Jeane Kirkpatrick's observation in the Washington Post of August 3, 1992 that, "Building collective security requires abandoning preferred myths and facing the fact that it is not poverty, not ethnicity, not the break-up of empires that cause war. It is violent men and lawless governments."

The United States should help establish the rule of law in the new states of the former Soviet Union. For example, for several years, I have advocated an early withdrawal of all Russian armed forces from the new states of the former Soviet Union. The continued presence of these troops represents a provocation and, in my view, a violation of international law. They are poised for action in any trumped up situation.

My observations in some of the former Soviet republics also lead me to believe that Jews and other persecuted groups should work together closely to insist that a rule of law is established. Inevitably, their best allies should be committed personnel at the embassies of the United States. During my trip, I made contact with Jewish leaders and leaders of other identifiable groups. Our embassies should do no less. In fact, groups that can establish that internationally-recognized rights are being violated ought to work together. Embassy staff and the U.S. State Department should investigate and document such cases in the annual Human Rights Report and push hard for those who are otherwise powerless. We must not accept the argument that military force is needed to protect "ethnic rights." Under a truly democratic system, groups peacefully oppose each other within the political structure. They do not resort to violence.

Recently, the Russian government has begun to complain about Baltic mistreatment of the Russian minority. It has tied the resolution of this Russian minority question to the removal of Russian troops. Russia has made threatening statements that the Russian Army will be used to protect the rights of ethnic Russians and that sanctions may be employed.

The Baltic governments, on the other hand, believe that the majority of the Russian population in the Baltic States are there as a result of an illegal occupation. Therefore, as colonizers, they want the Russians to fulfill citizenship criteria.

The three states have taken different positions. The Lithuanians granted blanket citizenships to all Russians who applied from 1989 to 1991. The Estonians have a short residency requirement and also require demonstration of some language ability. The Latvians have not yet passed a citizenship of law.

This matter must be resolved soon. Based on my discussions with both sides, I do not believe that the Russian government should link the issue of troop removal to citizenship for Russian-speaking residents. That only inflames the situation. However, I personally hope the Baltic governments will display magnanimity toward those Russian civilians who clearly desire citizenship in the Baltic states. It may seem idealistic to expect such magnanimity after decades of Russian oppression of the Baltic states. Yet the goal of avoiding future disagreements should inspire good faith efforts to achieve an accommodation of historical and contemporary rivalries. These questions must be resolved by negotiations, not threats or violence.

During my visit to London, I attended what is probably one of the leading popular plays in London at this time, entitled "Death and the Maiden," by Ariel Dorfman. Ironically and incidentally, the theme of this play could have been a description of the human rights practices throughout the countries I had just visited. The play discusses how one group when it comes to power, punishes or tortures or mistreats the last group who had been in power, who had previously mistreated them. And the cycle continues on and on, generation after generation. At one point, one of the leading characters in the play said:

"So we go on and on with violence, always more violence. Yesterday they did terrible things to you and now you do terrible things to me and tomorrow the same cycle will begin all over again. Isn't it time we stopped?"

CRAZY HORSE MALT LIQUOR

Mr. PRESSLER. Mr. President, in this National Year of Reconciliation between American Indians and non-Indians, we should do all we can to uphold our commitment to "lay aside our fears and mistrust of one another * * * and to strive towards mutual respect and understanding." These words are from the law designating 1992 as the "Year of Reconciliation." However, the spirit of this year has been spoiled in part by the Hornell Brewing Co. of Brooklyn, NY, and its new malt liquor product. They call it Crazy Horse. I call it outrageous. This is an insult to Indians and it should be taken off the market.

Crazy Horse is deservedly revered and respected. He is a symbol for his people and their entire way of life. His place as an American Indian spiritual leader and war hero is firmly fixed in the history of our Nation. But now, the name of this great man is firmly fixed to the label of a malt liquor bottle.

The Crazy Horse Malt Liquor marketing campaign, purported to be a celebration of the Oglala Sioux hero, is seen by many as an insensitive and outrageous offense. It adds to a problem that endangers the health of many American Indians. Native Americans have been working hard to combat alcohol abuse. This new malt liquor threatens to undermine their efforts to halt the plague of alcoholism.

The statistics are sobering. The rate of alcoholism among American Indians is six times greater than that for the rest of the population. Native American babies are 20 times more likely than other infants to be born with fetal alcohol syndrome. American Indian youths are subject to twice the death rate of teens from other U.S. ethnic groups, and three times the rate of death from unintentional injuries, including traffic accidents. By the 12th grade, one native American male in four is a problem drinker.

When I first learned of Crazy Horse Malt Liquor, I protested to its brewer. On April 20, I asked company officials to stop manufacturing the malt liquor and invited them to come to South Dakota to visit our Indian reservations. I also challenged them to donate the profits from their beverage to alcohol abuse prevention programs on these reservations. They did not respond. In May, I testified before the House Select Committee on Children, Youth, and Families in opposition to the sale of Crazy Horse Malt Liquor. Following this, I requested the Department of the Interior to ban the sale of the malt liquor at national park concession stands. I am pleased that 669 concessionaires subsequently were asked to forgo the sale of this malt liquor.

To date, Crazy Horse Malt Liquor is being sold in more than 14 States and the District of Columbia. Legislation attempting to halt further sales has been under consideration. Fortunately, company officials have agreed to meet with tribal officials to discuss the banning of this product. I am pleased that Hornell officials finally have agreed to come to the bargaining table.

To claim you are honoring a man by placing his name on a product which is decimating his people is an outrage. On the back of the bottle, the label reads:

The Black Hills of Dakota, steeped in the history of the American West, home of Proud Indian Nations. A land where imagination conjures up images of blue clad Pony Soldiers and magnificent Native American Warriors. A land still rutted with wagon tracks of intrepid pioneers. A land where wailful winds whisper of Sitting Bull, Crazy Horse and Custer. A land of character, of bravery, of tradition. A land that truly speaks of the spirit that is America.

If the Hornell Brewing Co. really believed in what the label says about the history and spirit of America, we would not be faced with this distasteful situation. There is a definite difference between a good marketing strategy and exploitation. That line was crossed by Hornell Brewing Co. when it began production and promotion of Crazy Horse Malt Liquor.

REGARDING SECTION 1934 OF THE HOUSE-PASSED TAX PROVISIONS OF H.R. 776

Mr. FOWLER. Mr. President, I had intended to ask the chairman of the Finance Committee, Senator BENTSEN, a question during the recent debate on the energy bill concerning a provision contained in the House-passed tax title of H.R. 776. As I was unable to engage Mr. BENTSEN at that time, I hope the chairman will permit me to interrupt our current business to ask for a clarification of a provision in the House-passed energy bill.

During the Ways and Means Committee's consideration of H.R. 776, the ranking minority member of that committee added an amendment that used savings from a veterans' program to provide relief from the alternative minimum tax to the independent oil and gas industry.

This provision of the bill would extend for 5 years the authorization of the Secretary of Veterans Affairs to use income information obtained from the Internal Revenue Service and the Social Security Administration to verify the eligibility of veterans and their survivors for VA needs-based benefits—primarily VA pensions—and terminate benefits that the VA is paying to ineligible recipients. The provision saves $339 million in outlays over 5 years. As you know, this authority is due to expire September 30, 1992.

Mr. President, it is my understanding that the House sponsor of this amendment has now committed to withdrawing this provision in conference. I would ask the distinguished gentleman from Texas to clarify the intention of the Senate Finance Committee in dealing with this issue in the context of H.R. 776.

Mr. BENTSEN. As you know, the Finance Committee amendment to the energy bill does not include the provision that allows the Secretary of Veterans Affairs to have access to tax information for purposes of verifying the eligibility for needs-based benefits for veterans. I do not believe that the energy bill is an appropriate legislative vehicle for this provision. As chairman of the Finance Committee, I will urge that the House recede to the Senate position on this provision of the bill so that it is not included in the final conference agreement. I understand that this is the recommendation of the Senate and House Veterans' Affairs Committees.

Mr. FOWLER. I appreciate the chairman's response.

USDA REFORM AND SENATOR PATRICK LEAHY

Mr. DASCHLE. Mr. President, it is time to reform the structure of the U.S. Department of Agriculture and to eliminate outdated and inefficient offices. We can no longer afford to delay the necessary downsizing of USDA. Thousands of USDA field offices stretch across this country, many of which have few customers and cost more to run than the aid they dispense.

Streamlining USDA is not a new topic of discussion. It has been the subject of eight General Accounting Office and internal USDA reports. Unfortunately, most of the cost-saving recommendations in these reports have been ignored. While everyone agrees that change is needed, too few people have been ready and willing to face the political challenge of getting the job done.

Yet, despite the uphill battle, Chairman PATRICK LEAHY has led the charge for years on USDA reform. His tireless pursuit of wasteful Government bureaucracy has brought us to this debate today.

I want to share with my colleagues some of the history of Chairman LEAHY'S involvement in USDA reform—specifically regarding agricultural research facilities.

For years, Chairman LEAHY'S has argued that we should close and consolidate many existing agricultural research facilities. I recall his research efforts in this area back in 1988. His concerns prompted him to write a letter to then Secretary Clayton Yeutter on February 24, 1989. That letter demanded various data from the Department on research offices and a priority ranking of such offices to aid the committee's review. It is a letter I gladly cosigned. It is ironic to note that among the other cosigners was former congressman, and now Agriculture Secretary, Edward Madigan, who is now dragging his heels on USDA reform.

On June 14, 1989, Chairman LEAHY gave a keynote speech before the Experiment Station Committee on Organization and Policy and the Cooperative State Research Service. It was a controversial speech and stunned many of the agriculture researchers in the audience. He called for an overhaul of the existing system. He called for consolidation and closure of existing facilities.

In this June 1989 speech, Chairman LEAHY'S message was loud and clear. He said:

* * * in today's climate of limited resources and tight budgets, we have to make certain that every agricultural research dollar is well spent. Unfortunately, that's not happening. Some of our labs are white elephants—some are not fully staffed. We are wasting precious resources to carry labs that should have long ago been closed.

What Chairman LEAHY found was astounding. As chairman of the Subcommittee on Agricultural Research and General Legislation, I was most interested in his analysis which became a topic of our committee discussions. Let me share with you some of the findings Chairman LEAHY has provided my subcommittee.

Facilities need to be closed. Several facilities are less than 30 percent occupied. Many of these facilities are understaffed because of shifting research priorities. Yet facilities remain open, consuming millions of operating dollars, to house fewer than 10 scientists.

Facilities need to be modernized. Scientists are struggling to conduct critical research in makeshift trailers, 50-year-old dilapidated buildings, and old army barracks.

Facilities need to be consolidated. Within the same State, separate facilities conduct nearly identical research. Consolidation would reduce escalating facilities costs. Within the last 5 years, the operating costs of the Agricultural Research Service facilities rose 34 percent while personnel remained constant.

Future facilities need to be evaluated. Facilities are constructed year after year with little systematic planning. The Cooperative State Research Service alone will spend close to $400,000,000 to complete construction of planned and partially constructed facilities on State university campuses. New projects are undertaken before old projects are completed. Buildings are constructed before programmatic funds are secured to operate them.

With facts in hand, Chairman LEAHY lead the debate during the 1990 farm bill on this issue. He challenged his colleagues to make tough political choices and find a means to reform the system.

Chairman LEAHY'S efforts culminated in passage of section 1674 of the FACT Act of 1990 which authorizes a Facilities Commission to review all agricultural research facilities and make recommendations for closures, consolidations, and possible reinvestment. This Commission, modeled after the Military Base Closing Commission, was adopted by the Congress as an effort to improve efficiency and curtail earmarking.

Unfortunately, the Facilities Commission has not been implemented by the Department. During Secretary Madigan's confirmation hearing in March 1991, Chairman LEAHY asked: "Will you join me in a call for a rationale policy for agricultural research facilities by implementing the Facilities Commission authorized in the farm bill? If you do not support the Commission, please explain the reasons why and how you will alternatively deal with the waste in the current system."

Again and again Chairman LEAHY has queried the Department on this issue. He is committed to resolving these problems and has been disappointed by the administration's lack of cooperation.

But his efforts on USDA reform have not diminished. When many would have turned away in discouragement, Chairman LEAHY responded by turning up the heat. His efforts on USDA reform have mushroomed to include a systemwide analysis of the agricultural bureaucracy. Many have followed in his footsteps, contributing their views and analysis on various aspects of USDA's structure. Now, the committee has expanded its review to include field service agencies and computer technology among other areas. His call for reform has been embraced by Democrats and Republicans alike.

On May 20, 1992, Chairman LEAHY introduced S. 2752. I am an original cosponsor of this legislation to establish a bipartisan base closing commission to review the field structure of the U.S. Department of Agriculture and to recommend overall structural changes in the Department. Clearly, Chairman LEAHY'S 1990 legislation on agricultural research facilities was the precursor of S. 2752, and it has set the stage for debate on this expanded effort.

Mr. President, there is so much at stake. We can no longer delay reform of USDA. The time for action is now. I applaud Chairman LEAHY'S longstanding efforts and urge my colleagues to join the committee in its pursuit of a leaner and more efficient USDA.

CONFIRMATION OF DONALD B. ENSENAT AS AMBASSADOR TO BRUNEI

Mr. JOHNSTON. Mr. President, I am extremely pleased that the Senate confirmed Donald Burnham Ensenat as Ambassador to the Sultanate of Brunei on Friday, August 7.

I have known Mr. Ensenat well and favorably for many years. He has an exemplary reputation in the New Orleans and Louisiana legal communities and has also been involved for many years in a number of local community organizations.

But most important is having a representative in Brunei who is familiar with energy issues and trade. Brunei is one of the key oil and gas producers, and many United States companies including a number from my home State of Louisiana are involved in that Nation's energy sector. Mr. Ensenat has a strong background in trade, and is particularly well suited to represent our interests in this key post. Since 1974, he has been an active member of New Orleans' World Trade Center, an organization which has served a key role in promoting exports from Louisiana and which has taken a lead role in outreach efforts to businesses throughout Lou-

isiana and the general area to help them identify new economic opportunities abroad to retain and create new jobs here at home. In addition, since 1990, Mr. Ensenat has served as a director of the Overseas Private Investment Corporation [OPIC], a position in which he has gained impressive hands-on experience in trade promotion activities.

I am confident that Donald Ensenat will serve the interests of the United States well and ably in this important position and I wish him and his family well in this challenging assignment.

TRIBUTE TO GEN. HANSFORD T. JOHNSON, USAF

Mr. THURMOND. Mr. President, I rise to recognize Gen. Hansford T. Johnson who is retiring from the U.S. Air Force after 33 years of distinguished service to this Nation.

Mr. President, General Johnson is well known to the members of the Senate Armed Services Committee before which he appeared on numerous occasions. He is known to the Nation as the commander of the airlift that provided the beans and bullets for Operation Desert Storm. His effort in this regard is considered the greatest airlift in our Nation's history, and an important factor in the great victory by the forces of freedom, over the tyrant Saddam Hussein.

Mr. President, to us in South Carolina, General Johnson is a native son. He was born and raised in Aiken, SC, my present hometown, and attended Clemson University before his appointment to the U.S. Air Force Academy, from which he graduated in 1959.

Mr. President, General Johnson's distinguished career which began as a C–130 pilot in Europe, took him to all corners of the globe. He flew 424 combat missions, 71 of which were over North Vietnam, as a forward air controller. For his heroic actions, he received the Silver Star and was awarded the Distinguished Flying Cross twice. Later in his career, General Johnson commanded the 22d Bombardment Wing and served as the Deputy Chief of Staff for Operations, Strategic Air Command, a significant achievement for an airlift pilot in the fighter pilot dominated world of the Air Force. Before assuming his current position as Commander and Chief of the U.S. Transportation Command and Air Mobility Command, General Johnson served as the Director of the Joint Staff, Joint Chiefs of Staffs.

Mr. President, on behalf of the people of South Carolina and the Nation, I want to express my appreciation to General Johnson for his 33 years of sacrifice and loyal service to a grateful Nation. I wish him and his wife, Linda Ann, the best in their well deserved retirement and success in their future endeavors.

HATCH PRAISES GARN—1992 RECIPIENT OF WRIGHT BROTHERS AWARD

Mr. HATCH. Mr. President, I rise to pay tribute to a colleague and friend, who, in the next few months, will retire from this body after serving his State and country for 18 years. He did this not only on land, but in space. I am speaking, of course, of Senator JAKE GARN.

It goes without saying that JAKE has won our respect here in the Senate and has won numerous awards for his endeavors in this country's space program. And yet, another—possibly the highest award for JAKE—has just been announced. He is this year's recipient of the Wright Brothers Memorial Trophy, awarded by the National Aeronautic Association. Over 400 people were nominated; and from the 23 individuals making the final cut, it was Senator GARN who was awarded for his significant public service to aviation in the United States.

This is truly a great honor for JAKE. Past recipients include Charles Lindbergh and Lt. Gen. James Doolittle.

The trophy has been awarded annually since 1948 and will be presented to JAKE at the annual Wright Brothers memorial dinner to be held this December 11, in Washington, DC.

The expected thousand people to attend the event will hear the citation on the Trophy read as follows:

In recognition of a lifetime of public service in government and active participation in all segments of U.S. aviation—as a military and civilian pilot, astronaut, and as one of the U.S. Senate's most effective aerospace spokesmen and legislators.

JAKE practices what he preaches. A pilot with more than 10,000 military and civilian flying hours, JAKE's personal conviction about the importance of a strong space program deepened with his flight in 1985, as a payload specialist, aboard the space shuttle *Discovery*.

Anyone who has watched JAKE GARN knows of his sincere desire to promote aviation and space flight issues. He is a leading advocate for this Nation's future in space. He truly believes that aviation and space flight are at the apex of mankind's dreams. My friend and colleague has been a constant and courageous voice in the Halls of Congress for the progress of aviation and space flight, and is certainly a worthy recipient of the Wright Brothers Memorial Trophy.

WELCOME, THOMAS JAMES SHAY

Mr. DECONCINI. Mr. President, I would like to call the attention of Congress to the recent birth of Thomas James Shay which occurred on April 22, 1992. Thomas is the newest addition to the family of John T. Shay, a staffer in my office, and Mary A. Shay. Although Master Thomas was delayed in his arrival by as much as 3 weeks, his eventual appearance was a truly blessed event. Thomas has used the last 3½ months very prudently, he has gone on to both impress and woo all who have had the opportunity to come in contact with him. It is clear to this Senator that Thomas James Shay will aspire to greatness. Thomas carries with him a sound American-Irish heritage, a good family, a proud mother and father, and a solid appetite. These attributes are the keys which I am sure he will use to achieve success in the future. I wish him well on his journey through the challenges and rewards that life has to offer.

TRIBUTE TO RED McILVAINE

Mr. REID. Mr. President, it is with great pleasure that I recognize a good personal friend, and a friend to all residents of southern Nevada, Red McIlvaine.

On August 21, 1992, Red McIlvaine will be recognized in a special charity event at the Stardust Hotel in Las Vegas entitled "Rendezvous with Red: A Star Spangled Salute to Red McIlvaine." There is nobody more deserving of this special tribute.

For more than 25 years, Las Vegas residents have had the remarkable good fortune to be entertained by one of the warmest, wittiest, and most generous media personalities to be found anywhere. Red McIlvaine's devotion to the community has always been evident in his successful radio and television programs, in his column in the Las Vegas Sun, and in the many charities he has served as either master of ceremonies, telethon host, or press advocate.

As an entertainer, Red is the best. My favorite program was his 6 a.m. to 10 a.m. Kork Show with Darrell Dreyer. It was hilarious.

Red has worked with numerous organizations, including the Children's Miracle Network, the March of Dimes, the Kidney Foundation, Help Them Walk Again Foundation, the Sunshine Bus Committee, B'nai B'rith, Sons of Erin, local chambers of commerce, and many more. Red McIlvaine has faced these challenges with humor, energy, and enthusiasm.

In addition, with his beautiful wife, Carrie, Red has raised two daughters, Haley and Amanda, and one son, Ryan. I have always enjoyed reading in Red's columns how his family runs his life.

During the past year, however, Red has faced another, more difficult challenge—a personal battle against lung cancer and brain tumors. He is facing this battle in the same way that he has faced all conflicts: With laughter and with a zest for life.

My wife, Landra, and I are proud to join with all Nevadans in saying "thank you" to Red for all he has done for our State and our community.

TRIBUTE TO MAX M. SHAPIRO

Mr. DODD. Mr. President, I rise today to pay a tribute to the late Max M. Shapiro, a dear friend and former colleague who passed away this past April. I want to take this opportunity to extend my deepest sympathies to his children, Andrew and Suellen.

Max was an exceptional lawyer, a rare scholar of the law. As the former president of the Connecticut Trial Lawyers Association, he wielded enormous influence on judicial thinking across the State of Connecticut. But his greatest contribution, I am certain, was the kindness and wisdom he shared with all who were lucky enough to have known him.

I know of this special influence firsthand, Mr. President. For several years, I had the pleasure of working in Max Shapiro's law firm. Max taught me more in those years than any law school curriculum ever could have.

Max was a true American original. He was always at the ready with a funny joke, a piece of advice, or a pithy commentary on the state of world affairs. He was also a wonderful friend of my father's—indeed, he was especially close to the entire family.

Mr. President, I want to include in the RECORD at this time an article that appeared in the August 2, 1992, edition of the New London Day. The article was written by Dale P. Faulkner, one of Max's former partners. I think Mr. Faulkner accurately portrays the special legacy of Max Shapiro when he writes the following:

Other professions erect buildings that fall down, bridges that wash out, planes and ships that rust into obsolescence. Max left more enduring stuff—ideas and inspiration.

I ask unanimous consent that the full text of the article be placed in the RECORD at this time.

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

[From New London Day, Aug. 2, 1992]

TO A LAWYER WHO THOUGHT BIG

(By Dale P. Faulkner)

I first met Max Shapiro on the last Friday of November 1963. I spoke with him for the final time on Dec. 23, 1991. During the intervening 28 years, we enjoyed a lively, multidimensional relationship.

So when Max died in late April, why was it so difficult to organize my thoughts to pen an appropriate farewell?

The problem lay in the reality that Max's life was so full and so fully lived and that his impact on my professional life was so profound that mere words fail. If spirit could be transferred to substance, we might be able to make a start.

He was, says one local lawyer, "A little bit harebrained and crazy." In the words of another, "Had he not been a lawyer he might have made a fancy living dealing cards."

His style was swift and sure. He knew how to play the system and how to get around it. He courted the press and those of rank with style, and he enjoyed a good cigar. He thought big and he never looked back.

Sure, everyone knows that Max, a former Connecticut Trial Lawyers Association president, was an outstanding trial lawyer. He had read and re-read Wellman's definitive work on cross-examination and was masterful in that art.

Max was underrated as a student of the law. A small green tin box, containing 5-by-8 cards, detailing the rules of law and the cases supporting the rules, was always on the shelf behind his office chair. He made the additions to it himself.

He drew clients as if he were a magnet. He was at home with those of importance as well as those of lesser stature. His own modest childhood enabled him to relate well to those of similar circumstance. Yet, his mental agility and charm served him well while he represented admirals, their spouses, sports figures, judges, lawyers, doctors and entertainers.

He made fast friends to whom he was ferociously loyal. No ill wind or change of circumstance could bend or break that relationship. Max, kindly and generously, would remember those whom he embraced with notes or gifts or calls of good, sound advice.

He loved new business. It was sport for him to sign up a new client. Toward that end, he left his card wherever he went. And, he often boasted, in truth, that if six lawyers were in a restaurant he would be the one to leave with a client. Usually, it was the waitress.

Max's personality was that of excitement and fun. Most of the latter was self-deprecating.

Years ago, he arrived early at the Circuit Court and was told that the judge would be getting there late. Wanting a morning coffee, he asked a young lawyer, in the event court opened before his return, to advise the judge he had left the building and would return shortly. Court did open before Max's return. The young lawyer, afraid that Max's trip for coffee could be construed as disrespectful, advised the judge that, "Mr. Shapiro had to go to the law library and will be right back."

On returning to the building, Max was informed what had been said to the judge. Boldly, with only the deference he could pay to judges, Max announced that he had been the subject of a great disservice and that he had not, nor had he ever, gone to the law library.

A FAVORITE STORY

One of Max's favorite stories occurred during the salad days of the long gone Bridgeport Herald, a precursor of today's scandal sheets. Max and George Curtis Morgan, then an aged member of the bar, represented two prominent professors of Connecticut College in their divorce case. Once the lawyers had agreed to the terms of dissolution, Morgan told Max to approach the bench and whisper to the judge that the case was settled and in that way avoid the paper's likely notoriety.

Judge Carl Foster, whose long gray locks flowed onto his shoulder, would have no part of it and commanded Max to step back. Three paces back were not enough, six, nine, 12, 15 were not enough. And, as far back as Max retreated, Foster continued to bellow, "Get back, young man!" By the time the judge was satisfied, Max was nearly out the door, requiring him to shout out the identity of the parties and the terms.

During an evening card game in the cellar of a local lawyer's home, the host's wife interrupted the gambling to inform Max that he had a telephone call. Reluctantly, he picked up the phone and found that the caller was a divorce client whose matter had been agonizingly long. In excited tones, the client said that her husband had just died and she wanted advice as to what to do next. An exasperated Max responded, "Bury the son of a bitch. You've been trying to get rid of him for five years!"

Another of his clients was entertaining a married gentleman whose heart gave out during the afternoon's activities. Stunned and confused, she waited for dark at which time she hauled the body to her car and stuffed it into the trunk. She then dumped it in a vacant lot near Willimantic. Later, Max defended her in a civil suit brought by the widow claiming desecration of the body. While the trial was in progress the judge kept inquiring of counsel as to the value of what he referred to as "deceased meat." Max settled the case before verdict and took great delight in keeping from the judge, thereafter, what the per pound figure was.

The Supreme Court's decision in Gaul vs. Noiva 155 Conn. 218 (1967) led to a second trial which again pitted Max against Allyn Brown. The first trial before Judge Joseph Longo had been hotly contested. During the voir dire of the second case, Max and Allyn started up again in the manner of two street fighters.

QUESTIONING JURORS

Both were yelling while questioning each potential juror. When Allyn objected to Max's loud tones, Judge Joseph Dannehy remarked that he had heard Brown yelling just as well. Brown agreed that he, too, was guilty. In overruling the objection, Judge Dannehy indicated that as long as counsel wanted to yell at the jurors, it was fine with him.

Max's love of his children—Andrew and Suellen—was limitless. His happiest moments were the occasions when he exercised his profound generosity to them. When they became lawyers, he was full of pride since their entry into the law mirrored his own deep love of the profession.

And that's what can most be said of him. He treasured what he did. All other endeavors shrunk in his eyes when compared to the practice of law.

Max's love of the law was communicable. It was infectious. And, his driving personality caused that love to spill out to others willing to listen and follow.

He was the ultimate mentor. He was to me what RisCassi was to Davis; what Koskoff was to Bieder; what Muir was to Foley.

He was loud. He was demanding. He insisted on perfection. He coaxed and cajoled. But all the while, he was a teacher.

What did he teach? He taught us how to be lawyers.

What did Max, the lawyer, leave behind?

Other professions erect buildings that fall down, bridges that wash out, planes and ships that rust into obsolescence.

Max left more enduring stuff—ideas and inspiration.

Farewell, sweet friend.

SOUTH DAKOTA OLYMPIANS

Mr. PRESSLER. Mr. President, on the 28th of July, Dennis Koslowski, a native of Doland, SD, captured a silver medal in the summer Olympic games in Barcelona, Spain. With this splendid accomplishment, I am proud to say, Dennis became the only American to earn two Olympic medals in Greco-Roman wrestling.

Dennis first established himself as an accomplished athlete during his days at Doland High School. His success there and in college opened the door to

a silver medal in the 1987 world championships in the 220-pound division, and a bronze medal at the 1988 Seoul summer Olympic games in the same division and event. On the road to the final match in Barcelona, Dennis faced stiff competition, yet did not give up a single point to any of his opposition. The final match required an overtime period before he was awarded the second-place honor. In Doland, the church bells were rung and sirens blared in celebration of Dennis' success.

Two other Olympians from my State also took honors at this year's competition. Chad McConnell, originally from Sioux Falls, shined on the baseball diamond. With his outstanding work defensively and at the plate, this outfielder propelled the U.S. baseball team to a fine fourth-place finish. Chad, a first-team All-American this year at Creighton University, demonstrated his clutch playing abilities as he accumulated a batting average of over .300, eight RBI's, and one home run.

South Dakota's third Olympian, Cindy Greiner, is originally from Wilmot, SD. Cindy provided leadership as captain of the women's track and field team. This heptathlete achieved a fourth-place finish in the long jump, fifth in the 800-meter dash, and 10th in the javelin. This, in combination with the four other events, earned her the ninth-place spot overall in her third Olympic appearance.

Mr. President, I, along with the entire State of South Dakota, salute these athletes. We are extremely proud of their achievements. These individuals personify the spirit and fortitude that makes our Nation and its Olympic competitors stand out from the rest of the world.

LIONEL BORDEAUX RECOGNITION

Mr. PRESSLER. Mr. President, I take this opportunity to recognize an outstanding South Dakotan and humanitarian, Lionel Bordeaux.

Dr. Bordeaux, a member of the Rosebud Sioux Indian Tribe, recently was presented the prestigious Leo Reano Memorial Award at the 130th annual meeting of the National Education Association. This award recognizes individuals who provide leadership in finding solutions to social problems experienced by American Indians and Alaskan Natives.

Mr. Reano, whom the memorial is named after, is remembered for his dedication to expanding educational opportunities for American Indian students. I can state unequivocally that Lionel Bordeaux has done more than most to help advance the interests of American Indians. Dr. Bordeaux's efforts have been tireless, and this commendation is well-deserved.

Dr. Bordeaux is cofounder and current president of Sinte Gleska University in Mission, SD. He has provided effective leadership for the Nation's first fully accredited reservation-based institution of higher education at the bachelor's degree level. He also is the former president of the American Indian Education Association and the American Indian Higher Education Consortium.

Dr. Bordeaux was cochair of the 1992 White House Conference on Indian Education, which brought together nearly 1,000 participants and over 230 delegates to consider ways to improve educational programs for American Indians and Alaskan Natives. The conference provided recommendations to make educational services more effective in Indian country. These recommendations will help to guide all who are involved with American Indian-Alaskan Native student. The conference also explored the feasibility of establishing an independent Board of Indian Education.

I always have valued the advice and counsel of this knowledgeable educational leader. From the times I have worked with Dr. Bordeaux in the past, I know he is sincere in wanting to overcome the hurdles facing Native American people in their efforts to become more self-sufficient.

On May 9, 1992, Congress passed a joint resolution designating 1992 as the "Year of Reconciliation Between American Indians and non-Indians," which I cosponsored and enthusiastically supported. It calls upon all people to "lay aside fears and mistrust of one another, to build friendships, to join together and take part in shared cultural activities, and to strive toward mutual respect and understanding." In this year of reconciliation, we can all be inspired by the example of Lionel Bordeaux.

Mr. President, I ask unanimous consent that a Lakota Times article from July 8, 1992, about Lionel Bordeaux be printed in the RECORD immediately following my remarks.

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

BORDEAUX GETS HIGH HONOR FROM NEA

WASHINGTON, DC.—The National Education Association honored Lionel Bordeaux, president of Sinte Gleska University, with the Leo Reano Memorial award last week.

Mr. Bordeaux, a member of the Rosebud Sioux Tribe, was recognized for his leadership in resolving social problems of American Indians and Alaskan Natives.

He received the award at the Annual Human and Civil Rights Awards banquet in Washington, D.C. last week.

SGU is considered to be the leader in the current tribal college movement and has survived in one of the poorest areas in the country.

The banquet was held in conjunction with NEA's annual meeting, attended by more than 10,000 delegates and other participants from throughout the United States.

Since 1973, when he became president of Sinte Gleska College, now Sinte Gleska University, Mr. Bordeaux has worked to expand the course offerings of the college so that it currently offers degrees from associate to master's levels.

He initiated culture-based courses and a curriculum in elementary education where students address traditional values and current issues in Native American communities. Mr. Bordeaux initiated courses in economic development, as well as programs that address societal problems on the reservation.

"With his unwavering dedication to the process of self-healing and growth, Lionel Bordeaux has demonstrated his leadership in the Native community for years," said National Education Association president Keith Geigar, who presided over the ceremonies.

Mr. Bordeaux served as co-chair of the 1992 White House Conference on Indian Education. He is former president of he American Indian Education Association and the American Indian Higher Education Consortium.

The Leo Reano Memorial Award was initiated in 1972. Mr. Reano was a citizen of the Santo Domingo Pueblo, a member of the All Indian Pueblo Council, and a member of the National Education Association Council on Human Relations. He dedicated his life's work to securing educational opportunities for American Indian students.

INCIDENT AT OGLALA

Mr. PRESSLER. Mr. President, over the July recess, an article that appeared in a South Dakota newspaper did an excellent job of telling "the rest of the story," as Paul Harvey might say. In it, Mr. Nicholas V. O'Hara, special agent in charge of the regional FBI office in Minneapolis, and a native-born South Dakotan, presented readers with fact, circumstance, and law that were selectively excluded in the recent documentary film, "Incident at Oglala."

I recently saw this film. As I watched it, I kept waiting to see a presentation of all the facts surrounding the tragedy that took the lives of two young FBI agents, Jack Coler and Ron Williams—my wait was in vain. Thankfully, Mr. O'Hara has presented an accurate account of what really happened near Oglala, SD, that day. In doing so, he has served the public immensely.

"Incident at Oglala" takes a few isolated facts and constructs a theory of what could have occurred. If viewed in the context of all the evidence, as Mr. O'Hara demonstrates, the film bears little resemblance to reality." Incident at Oglala" presents an inaccurate version of history. Considerable footage is devoted to establishing the premise that Government actions created a "climate of fear" on the reservation. This atmosphere, according to the film, presumably explains or conceivably justifies why the two agents were killed. This logic fails me.

Any action the Government may have taken against radical, violence-prone groups in the late 1960's and early 1970's, or that one faction of Indians may have taken against another on the reservation, had no bearing on de-

termining the guilt of the innocence of Peltier. If the film makers included this bit of irrelevancy in the documentary, why not also include certain incidents in Peltier's life that might give the viewer a more accurate, more factual picture of this convicted killer?

This film is anti-Government. If seems that "Incident at Oglala" is more interested in establishing a case against he Government than in depicting Peltier's propensity for violence and his cavalier and reckless attitude toward the lives of others.

For instance, according to court records, on November 22, 1972, Peltier was charged with the attempted murder of an off-duty Milwaukee policeman. He was arrested, pleaded not guilty, and was released on bond. On July 29, 1974, he failed to appear for trial, having begun a flight to avoid prosecution which eventually brought him to the scene of the agents' deaths and of the warrant for his arrest. On November 14, 1975, an Oregon State Police trooper stopped two vehicles near Ontario, OR: a motor home and a Plymouth station wagon. Peltier was an occupant of the motor home.

Upon searching both vehicles, Oregon authorities recovered from the motor home Special Agent Coler's revolver in a paper bag bearing Peltier's thumbprint and from the station wagon several shell casings that had been fired from Coler's revolver. An April 19, 1977, Washington Post article reported that a Canadian Mounted Police officer, serving an arrest warrant on Peltier for the murder of the two agents, testified that Peltier told a camp elder he would have blown "us out of our shoes" had he seen the Mounties arrive to arrests him. On yet another occasion, Peltier endangered law personnel when he escaped from prison in Lompoc, CA. That incident resulted in the death of one of his accomplices in the escape. Peltier has repeatedly risked and taken the lives of others to save his own. These are hardly a saint's actions.

"Incident at Oglala" asks the public to find Peltier "not guilty" without hearing all the facts or the Government's entire case against him. The film ignores the judgment of the 12 jurors who, after 5 weeks of reviewing all of the evidence and hearing both sides of the case, found him guilty beyond a reasonable doubt.

I ask viewers of this film to reserve judgment. Viewers need to hear both sides of the case and all of the facts. The Government is forbidden by ethics and regulation to comment extensively in public on the case, as it still is subject to appeal. People deserve to know more about the Peltier case. If they desire to learn more about Peltier, they should read the court opinions issued on his various appeals. Relying on the views of a movie that does not present all the facts merely perpetuates ignorance as to what really happened.

We are a Nation based on justice. We determine the guilt or the innocence of accused individuals in courts—not on television or in the movies—with juries that hear all the evidence and both sides of the case.

The U.S. Supreme Court has twice determined that Peltier's appeals warrant no further consideration.

Peltier's conviction has stood for 15 years. None of the media's nor Peltier's allegations have sufficiently met the legal standards required to grant Peltier a new trial.

Mr. O'Hara has made a significant contribution to the public's ability to learn what really happened on that hot, summer day 17 years ago. Perhaps someday we may hear more. I thank God for individuals like these two fine young men who gave their lives fulfilling a congressional mandate to enforce the law and bring lawbreakers to justice.

METRO ORANGE COALITION

Mr. PRESSLER. Mr. President, the District of Columbia—the Capital of the United States—is no longer a safe place to live. The situation has not yet deteriorated to the point where everyone obsessively fears for his or her life, but it has reached a level far beyond what decent citizens should have to tolerate.

The threat of violence has loomed over District residents far too long. For instance, last year our Capital had the infamous honor of being the Nation's murder capital with 482 homicides—the fourth year in a row D.C. has received this unwelcome distinction. The number of robberies in the District also rose in 1991, compared to the previous year. Even our colleagues and their staff members have not escaped being victimized by criminal violence.

Despite this bleak picture, many Washington residents have not given up hope. Indeed, many have taken an active role in trying to fight drugs and crime. There is an impressive movement on the community level to reclaim city streets from ever-present lawbreakers and drug dealers. One outstanding example is the Metro Orange Coalition, an umbrella organization for neighborhood patrol groups in Washington.

These "orange hat patrols," named for their distinctive orange attire, have been an effective crime deterrent. The patrols regularly monitor community streets at night, record suspicious activity, and catalog license plate numbers of questionable vehicles. Simply by being noticeable, these volunteers have managed to reduce instances of crime and drug activity in their neighborhoods. Beyond mere crime statistics, these groups have managed to accomplish something else possibly even more important—they have brought back community cohesiveness and neighborhood spirit.

According to Mr. James Foreman, the coordinator of the Metro Orange Coalition, 216 patrols currently are active, with new patrols forming all the time. Initially funded by private contributions, I believe these groups have reached the point where they need additional support to become more effective. Mr. Foreman has informed me they could use more equipment, such as radios and video recorders, to make patrols safer and more effective. To date, they have not sought funding from any level of government.

Though certainly not the only means of fighting drugs and crime, I believe this program is an essential component of a sound comprehensive crime policy. I urge all levels of government to join in supporting "orange hat patrols" and make them an even more instrumental part in efforts to eradicate illegal drug activity in our Nation.

Giving our support to this program would do a great deal to strengthen the sense of community and responsibility among urban neighborhood residents. I commend the Metro Orange Coalition for its efforts to keep District of Columbia neighborhoods safer. I certainly hope this organization receives the very modest level of government support it deserves.

AMERICAN-ISRAELI RELATIONS

Mr. DOLE. Mr. President, a number of us had the pleasure this morning of having breakfast with Israeli Prime Minister Rabin. If any confirmation were needed, Prime Minister Rabin's remarks this morning made clear that United States-Israeli relations are fully back on track.

In my view, as I indicated here on the floor yesterday, the Rabin visit to the United States also underscored the wisdom of the approach that President Bush has been taking toward relations with Israel and, more generally, toward the Middle East.

Coincidentally, I have recently received a copy of an op-ed done by our former colleague here in the Senate, Rudy Boschwitz, concerning United States-Israeli relations. Written before the Rabin visit, the op-ed concisely and cogently makes the case that, in terms of concrete results rather than just atmospherics, President Bush has probably done more than any other United States President to help Israel advance its legitimate security and political agenda.

I ask unanimous consent to include the full text of the Boschwitz op-ed in the RECORD, and I urge all Senators to take a few minutes to read it.

BUSH/BAKER: A DEFENSE OR: NOT JUST A COUPLE OF HAIMISHE GUYS

(By Rudy Boschwitz)

MINNEAPOLIS.—The Israeli elections create the opportunity to renew the spirit of American-Israeli relations.

Many say they are at a low point. The spirit may be, but substantively, I believe the relationship is, and has been, as strong as ever.

Leslie Geib, the former assistant secretary of state under Jimmy Carter and now an editor of the New York Times, summed up American-Israeli relations and the Bush/Baker impact on it by writing, in effect: the lyrics are great, but the music is terrible.

My summary is the same but stated a little differently. The achievements of the Bush/Baker team exceed, by far, the accomplishments of any other American administration since the birth of the state of Israel.

But are President Bush and Secretary of State James Baker a couple of haimishe guys who know how to stroke Jewish angst and sensibilities (a full-time job under even good circumstances)? There the answer is clearly "no."

Let's look at the lyrics first, because many of my friends just can't get by the music and recognize, much less appreciate, some very remarkable achievements.

First, of course, is the peace process. For 44 years Israelis have wanted to sit across the table and negotiate with their neighbors. It wasn't achieved before, but it has been now.

And all of Israel's preconditions were met. I sat for an hour with Jim Baker in his office in mid-May. "It was like pulling teeth to get the Arabs there," he said. "Everyone of them wanted a freeze on settlements, insisted that Jerusalemites be represented on the Palestinian delegation and that Israel commit to territory for peace, and I said 'No,'" Baker told me.

As we spoke, Israelis were negotiating with 12 Arab countries in other parts of the State Department building on arms control. One of the negotiators was Bradley Gordon, now assistant director of the Arms Control and Disarmament Agency and for five years director of my Mideast senate staff.

The peace process is an extraordinary achievement and the most hopeful sign in the Middle East since Camp David—for which President Carter (another guy not too good with the strokes) deserves much credit, though he was aided by two remarkable statesmen: Menachem Begin and Anwar Sadat.

Bush and Baker have had no such assists.

Second, there are multilateral talks as well as bilateral negotiations occurring. The Bush/Baker team made it clear that anyone that wanted to play had to establish full diplomatic relations with the state of Israel. Israel, which had often been left out in the cold, suddenly became recognized by Russia, China, India and others and is now truly among the family of the world's nations.

Israel had sought diplomatic acceptance, but historically found diplomatic isolation. It is Bush/Baker that finally provided the muscle to accomplish this fundamental objective that Israel has had since her birth.

By the way, the broad, worldwide recognition—not isolation or rejection—is also reflected in a third great accomplishment: overturning the insidious 1975 U.N. resolution that Zionism is racism. This is something that everyone talked about, but no one else could achieve.

To quote Jim Baker: "That took a lot of arm twisting." Having served as a congressional member of our U.N. delegation, I can attest to the difficulties that were involved.

A fourth achievement, and a wonderful one, was Operation Solomon, the dramatic airlift of Ethiopian Jews to Israel in which I was so deeply involved as the President's emissary.

What few remember is that this was the second great airlift of Ethiopian Jews. The first was personally arranged by then-Vice President George Bush in 1985 when he made a trip to the Horn of Africa similar to mine of last spring to Ethiopia. Operation Solomon got done last spring only because George Bush was involved every step of the way and the Ethiopians knew it.

As I sat and negotiated with President Haile Mariam Mengistu, the brutal Ethiopian dictator, I thought what a difference 50 years makes. There we were—a former U.S. senator, high-level personnel from the White House and State Department fully supported by the President—negotiating for the poorest of the poor, the black Ethiopian Jews.

Fifty years ago nobody spoke out for our people in Europe. What a difference 50 years makes, the state of Israel makes, a strong well-organized American Jewish community makes.

But it would not have happened if there were not a president who understood and was willing to take the risks and push it. And when, as I understand it, some at the State Department wanted to abort the mission, Jim Baker wouldn't let them.

Yet some call, or intimate, that the president and Secretary of State are anti-Semites. What chutzpah.

A fifth achievement is the recent negotiations concerning the Syrian Jews who are now permitted to sell their property and travel with their families out of Syria. This is pretty current and sensitive stuff. But few thought it was any more possible than getting the Arab states to sit down with Israel.

Finally, of course, there is the Persian Gulf War and the removal of Israel's most potent opponent, the defense of Israel in its hour of need, and hopefully a decade's delay at least in the introduction of the most sophisticated weaponry to Israel's foes.

Consider also that George Bush is the first president not to look at the Arabs as a monolithic landscape. He built a coalition of Arabs to fight other Arabs, thereby weakening Arab nationalism and the unified threat it can pose to Israel.

I even believe that George Bush is the first president since Kennedy not to have used or threatened to use the availability of U.S. defensive weaponry as a tool to affect Israeli policy, as the Reagan administration did by suspending the sale of F-16's following Israel's 1981 strike on Iraq's nuclear reactor site.

When I spoke to my grandmother about politics, she would always ask me "Ist das gut fur die Juden?," a question essential in the old country of her youth. I believe Bush/Baker deserve a resounding "yes."

But are these a couple of haimishe guys who address Jewish sensitivities well? Regretfully not.

LT. COL. ROBERT P. DEMERS

Mr. DOLE. Mr. President, I want to take this opportunity to commend a good friend of the Senate who is retiring after over 20 years of dedicated service in the U.S. Army—and over 2 years of service in the Army's Senate Liaison Office.

Lt. Col. Robert P. Demers has brought to the Senate a depth of experience and insight that has been invaluable. His personal assistance to this body, and to our Nation, will be missed.

Bob entered the Army in 1969 and was commissioned as a second lieutenant. He has had many key assignments during his distinguished military career. These include service in Vietnam, Germany, and Alaska where he commanded various aviation units. Lieutenant Colonel Demers served in the Army's military personnel center as a personnel assignments officer and distribution officer, as well as the executive officer of the distributor division. His service in the Army's Senate Liaison Office brought him in close contact with many Members of this body. Those who have had the opportunity to travel with Bob, and rely on him like I have, will agree that Lieutenant Colonel Demers has served the Senate, the Army, and the Nation in a superb manner.

Dedicated and hardworking, Bob is not one to allow the spotlight to shine on him. However, I know that he has been highly decorated during his impressive career. He earned the Bronze Star Medal, the Army Commendation Medal, eight awards of the Air Medal, three awards of the Meritorious Service Medal, and recently was approved to receive the Legion of Merit—a final tribute to this fine soldier.

As Bob begins a new career in the civilian community, I would like to express my appreciation for his outstanding service and support. Service and dedication to duty have been hallmarks of Colonel Demers' career. I am sure that my colleagues will join me in thanking Bob and wishing him the very best in his future endeavors.

The U.S. Senate expresses its deepest appreciation—and a grateful Nation extends a heartfelt thank you to Lt. Col. Robert P. Demers, U.S. Army.

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 $3,997,280,824,245.29, as of the close of business on Monday, August 10, 1992.

On a per capita basis, every man, woman, and child owes $15,562.16—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.

EXPEDITED PRODUCT LIABILITY SETTLEMENT AND ALTERNATIVE DISPUTE RESOLUTION PROCEDURES OF S. 640, THE PRODUCT LIABILITY FAIRNESS ACT

Mr. ROCKEFELLER. Mr. President, when the Senate returns from recess on September 8, the first order of business will be consideration of S. 640, the Product Liability Fairness Act. While reasonable people may disagree about the merits of the legislation, I hope that we will be able to debate the actual provisions of the bill, rather than myths or outright misstatements about its contents.

To that end, today I would like to take a few minutes to discuss the expedited settlement and alternative dispute resolution procedures of S. 640—provisions which I believe will provide strong incentives for manufacturers to settle cases on fair terms without the expense of a trial.

While many supporters of this bill have focused on the present system's unfair treatment of manufacturers, I have always been deeply concerned by the glaring deficiencies of the liability system for people injured by defective products.

The deficiencies of the present system can be broken into four areas—the inability of innocent victims to secure any recovery; the disparity between a victim's loss and his or her recovery; the length of time it takes for victims who do prevail to be compensated; and the gross inefficiency of the liability and insurance system, which pays more to lawyers and insurance companies than to victims.

Every study of people injured by products shows that a high percentage of victims go without any compensation whatsoever. The largest of such studies, a closed claims survey of 24,452 claims by the Insurance Services Office [ISO] in 1977, showed that one-third of all claims were closed with no payment.

More recently, a 1989 GAO review of 305 product liability cases resolved through trials between 1983 and 1985 in five States—Arizona, Massachusetts, Missouri, North Dakota, and South Carolina—found that plaintiffs were awarded compensatory damages in only 45 percent of the cases studied.

While these studies do not address the culpability of the injured parties, the liability system itself denies compensation to the following categories of innocent injured persons: those who cannot identify the maker of the product; those injured by a product where the manufacturer is not negligent, in states that do not apply a strict liability standard or those that employ a risk-utility test; people injured by unavoidably unsafe products; and people whose negligence makes a minimal contribution to the injury, in States that maintain the defense of contributory negligence.

Second, every study of the liability system shows that it grossly overpays people with the smallest losses and sadly underpays those with the most serious losses. The ISO study found that claimants with economic losses of between $1 and $1,000 recovered, on the average and net of attorneys' fees, 482 percent of those losses. In contrast, people with economic losses in excess of $1 million recovered, on the average and net of attorney's fees, only 6 percent of those losses. A 1986 Alliance of American Insurers and American Insurance Association Study of large product liability claims found a net recovery of only 39 percent where economic losses exceeded $1 million.

While the GAO study found that "the size of compensatory awards * * * is strongly associated with injury severity and the amount of the underlying economic loss," this merely means that victims recover more for more serious injuries. In short, a disabling back injury generally will result in greater compensation than a broken leg.

This statement is not the same as saying that seriously injured people recover a higher percentage of their losses. As the next sentence in the GAO report clearly states, "Previous studies have also shown that the total amount awarded is frequently insufficient to cover just the economic losses when these losses are large."

Third, even successful claimants must wait an unconscionably long time to recover. The ISO study found that it takes 5 years to pay the claim with the average dollar amount of loss and that "larger claims tend to take much longer to close than smaller ones." Similarly, the GAO study found that it took 2½ years to move from filing to trial court verdicts.

Of course, in product liability cases, there are no interim payments. Victims are at the mercy of the adequacy—or inadequacy—of their own insurance to cover losses. Not only do the lengthy delays encourage seriously injured victims to accept insufficient settlements, but studies have found that delayed rehabilitation produces a lesser degree of recovery.

Fourth, the liability system is remarkably inefficient. The ISO study found that attorneys for both sides receive only slightly less than the victims, before considering insurance overhead costs. Further, a 1986 Rand Institute for Civil Justice study showed that the annual overall transaction costs of the U.S. tort system exceed compensation to plaintiffs; with net compensation between $14 and $15 billion, while transaction costs—including attorneys' fees for both parties—were between $15 and $19 billion.

Given the gross and obvious inadequacies of the liability system in compensating victims, one would expect to see the consumer groups clamoring for civil justice reform. In fact, a briefing book on S. 640 put together by Consumers Union, Consumer Federation of American, Public Citizen and U.S. Public Interest Research Group includes a list of 10 recommendations to "address the tremendous hurdles faced by consumers who are injured by defective products and seek compensation through the civil justice system."

The proposals include some things I support strongly—such as the establishment of a national health insurance system and increasing the effectiveness of Federal regulatory agencies. However, they include no direct reforms of the civil justice system.

Instead, the consumer groups have chosen to attack nearly every provision of the bill as anticonsumer. While reasonable people may disagree on the effect of some of the provisions, I believe we all have an obligation to conduct this public debate on a factual basis. In the area of expedited settlement and alternative dispute resolution procedures, I find the consumer arguments do not meet this test. I want to set the record straight.

Title II of S. 640 seeks to encourage settlements in product liability cases before the full force—and cost—of the liability system are brought to bear.

It contains two provisions designed to short circuit the legal system. First it establishes an expedited product liability settlement system. Under this system, either a claimant or a defendant may make an offer of settlement for a specific dollar amount.

If the claimant makes an offer and the defendant turns it down, a subsequent jury award of an amount greater than the claimant's offer would subject the defendant to a penalty of paying—in addition to the amount of the verdict—an additional amount equal to the claimant's reasonable attorney's fees. In short, this provides a strong incentive for the manufacturer of a defective product to settle a legitimate case. He will avoid not only the attorney's fees penalty; he will avoid having to pay most of his own attorney's fees because the case will be settled early.

What happens when the defendant makes an offer but the plaintiff turns it down? The result is similar, but with one dramatic difference. In such a situation, if the plaintiff subsequently recovers less than the amount offered by the defendant, the plaintiff is liable for defendant's reasonable attorney's fees. However, the penalty may not exceed "that portion of the verdict which is allocable to noneconomic loss and economic loss for which the claimant has received or will receive collateral benefits."

In English, that means that the plaintiff's penalty is capped at the amount of benefits available for the same losses from the plaintiff's own insurance. For example, if the defendant offers $10,000, the plaintiff turns down

the offer and then the plaintiff recovers only $8,000. If the plaintiff's private health insurer pays $3,000 and the manufacturer's reasonable attorney's fees are $15,000, the plaintiff does not have to pay the manufacturer $15,000. Instead, he has to pay only $3,000. If a plaintiff had no private insurance, then the plaintiff would face no penalty if the court awarded less than the defendant offered.

In sum, the plaintiff's downside does not occur unless he turns down an offer for more than the verdict and, even then, the penalty is simply to eliminate double recovery for his losses. This result is quite different than the result when the manufacturer turns down the plaintiff's offer. There, the manufacturer may be liable for the plaintiff's attorney's fees, with no cap whatsoever other than a limit of a reasonable fee.

Under the circumstances, I would think the consumer groups would be delighted that we have devised a system that so strongly favors the victim and that would significantly reduce legal costs.

Instead, here's the consumer groups' characterization of this provision in their July 31, 1992, testimony before the House Subcommittee on Technology and Competitiveness: "the plaintiff would be forced to pay the defendant's attorney's fees and costs. In essence, this provision blackmails consumers into accepting a company's right to a trial by jury under the seventh amendment." In addition, they stated that "An injured consumer, often without resources, can hardly risk the possibility that he or she may end up having to pay the legal fees of a corporate defendant in order to have his or her case heard by a jury."

This is simply not true. This statement misrepresents what section 201 of S. 640 does. As I said, this section would not require a plaintiff to pay the defendant's attorney's fees, except to the extent that the plaintiff has other funds available from private insurers to pay for the same economic or noneconomic losses. Moreover, an injured consumer without resources—the hypothetical posed in the consumer testimony—would have no downside. If the consumer has no collateral sources, then there is no penalty for losing a case.

On the other hand, if the injured consumer makes an offer, then the manufacturer would be in a quandary—pay the victim in a timely fashion, not the 5 years that the liability system normally takes, or risk paying the plaintiffs attorney's fees if he loses the case.

Now, let's examine section 202, the alternative dispute resolution procedures. These provisions are designed to encourage the use of existing State procedures to avoid lawsuits.

Under section 202, either party may offer to proceed under any voluntary alternative dispute resolution procedure established under the law of the State where the case is brought. However, if the other party refuses to proceed under these ADR procedures "and the court determines such refusal was unreasonable and not in good faith, the court shall assess reasonable attorney's fees and costs against the offeree." If a verdict is rendered in favor of the offeror, then a rebuttable presumption is created that the refusal by the offeree to proceed through the ADR mechanisms was unreasonable.

Now let's hear from the consumer groups' testimony again. It says "the real effect of the provision would be to discourage parties from exercising their constitutional right to a trial by jury and encourage defendants to offer inadequate amounts."

Once again, that statement is simply not true. The provision in no way impinges on a plaintiff's right to a jury trial. If a defendant offers to use a State's ADR mechanism, and the plaintiff agrees, the plaintiff would face no penalty whatsoever if he or she chose to ignore the result of the ADR system. As long as the plaintiff agrees to go through ADR, he or she may refuse to accept any recommendations in that process and seek a jury trial. Win or lose thereafter, the plaintiff would not be liable for the defendant's attorney's fees and costs.

Mr. President, in closing, let me state clearly that I believe this legislation, which in one form or another has been before the Senate for 13 years, has evolved into a balanced bill—not one that is pro-business or pro-consumer, but one that will produce a fairer and more certain system for rules for people by defective products. I opposed earlier versions of the bill because I did not think they met this test. After 13 years, isn't it time that we entered into a serious and honest debate over the provisions of this bill? Surely the liability system is not so perfect, from either a manufacturer's or victim's standpoint that it cannot stand improvement. If there are honest disagreements over its provisions, then let us try to work out reasonable compromises so that we can improve the system for all its participants.

TRIBUTE TO BILL SIMPSON, SR., AND BILL SIMPSON, JR.

Mr. SASSER. Mr. President, I rise today to pay tribute to a good friend and his son: Bill Simpson, Sr., and Bill Simpson, Jr., I have known the senior Bill Simpson for many years. As a former administrative assistant to Senator James Eastland of Mississippi and aide to President Carter, he is a friend and counsel to many current and former Members of Congress. I have always found Bill to be a wise and commonsense observer of the sometimes nonsensical politics of Washington.

Bill Simpson, Jr., has followed in his father's footsteps in public service, working as a field representative for Representative MIKE ESPY. Both chose to serve their Nation and their beloved home State of Mississippi. Their journey and the journey of the people of Mississippi along the course to racial harmony is recounted in a recent Wall Street Journal article. I offer that article to the Senate today as a testament to the Simpson family and a reminder of how far we have come on that difficult road.

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

[From the Wall Street Journal, July 27, 1992]

A FATHER-SON JOURNEY, FROM EASTLAND TO ESPY, MIRRORS THE COURSE OF MISSISSIPPI RACE RELATIONS

(By Jackie Calmes)

WASHINGTON.—When Bill Simpson, Jr. was growing up here, he was proud to know two of the most important men from his home state of Mississippi: his father and his father's boss, the powerful Sen. James Eastland.

In a sense, Mr. Simpson has followed in his father's footsteps: He, too, is an aide to a Mississippi lawmaker. But there is an important difference. Sen. Eastland was the Democrat who once stood as the virtual symbol of the most virulent Southern segregationists. Mr. Simpson's boss, Democratic Rep. Mike Espy, is the state's first black congressman since Reconstruction.

In the Simpsons' personal journey over a generation, from Eastland to Espy, is written the state's own passage on race relations. That, he and his father could have worked for such vastly different men, the 32-year-old Mr. Simpson says, "shows that Mississippi has progressed a lot more than other parts of the country."

Says Bill Simpson, Sr., 68, who still works as a lobbyist and adviser on issues important to his home state: "I don't mean to imply that things are ideal, but I think it's a snapshot of advancement."

The younger Mr. Simpson, a field representative in Rep. Espy's poor, rural Delta district, recalls his painful realization over the years about the racist record of his father's boss—the senator he once watched in awe from the rear of the Eastland Capitol office—and its bitter legacy in the memories of some of the black voters he now knows. At the same time, he has come to share his father's warts-and-all esteem for the overall accomplishments of the Senator, who died in 1986.

CIVIL-RIGHTS BILLS

Mr. Eastland represented Mississippi in the Senate for 36 years. For 22 of those years, from 1956 until his retirement in 1978, he was chairman of the Senate Judiciary Committee, where all civil rights bills in the Senate had to begin—and where, thanks to Sen. Eastland, many of them died.

"I had special pockets put in my pants," the senator once bragged, "and . . . I carried those bills around in my pockets everywhere I went, and every one of them was defeated." It was a much-repeated boast, part of the unflattering lore that Bill Simpson Jr. would discover about the senator.

Like other race-baiters, he would rail against "the mongrelization of the races" that civil rights laws would bring, and accuse their advocates of being Communist

agitators. Yet only Sen. Eastland, as Judiciary chairman, had the power to block for a year President Kennedy's nomination of Thurgood Marshall, later the first black Supreme Court justice, to a federal appeals court; he finally relented on "the nigger," as he reportedly put it to Attorney General Robert Kennedy, only after the president named a segregationist chum to a Mississippi judgeship.

The senator couldn't kill the 1965 Voting Rights Act, but federal voting registrars did stay out of his state's Sunflower County—home of the Eastland plantation, and of Fannie Lou Hamer, a civil rights hero who was repeatedly beaten for trying to vote. Today, traveling the same ground for Rep. Espy, Bill Jr. sees the white-owned farms that reaped the subsidies Sen. Eastland helped procure while opposing any aid for the poor blacks who lived nearby.

But even when Bill Sr. was a top aide to the senator, the Eastland attitudes on race were never the Simpson attitudes. "My father always taught me different," Bill Jr. says. In the process of reconciling those lessons with the bigotry of the senator for whom his father worked, there were numerous family talks. Says Bill Sr.: "I was not trying to excuse anything, but rather to make as clear as I could to my only son a cumulative, overall picture of Sen. Eastland's service to the state and to the nation."

STATE JOBS

The elder Mr. Simpson joined the senator's staff in 1968 after several influential state jobs in Mississippi. For much of the next 10 years, he was as close to a voice in the senator's office as the state's blacks had. Mr. Simpson and another aide, Frank Barber, "ran the interference we needed," says Aaron Henry, then as now the head of the state chapter of the National Association for the Advancement of Colored People.

Finally, 15 months before he retired, Sen. Eastland hired his first and only black aide—Ed Cole, now the state Democratic Party chairman. Even now, Mr. Cole says, the question, "How do you work for someone like that?"—the query that once troubled Bill Simpson Jr.—is a familiar one for him as well. Yet he calls the stint with Sen. Eastland "the best job I ever had." He adds, echoing the elder Mr. Simpson: "I understand his record in context."

Bill Simpson Sr. suggests that context during a recent dinner-table conversation at the family's suburban Washington home, his visiting son nodding in agreement. "Sen. Eastland, like anybody I ever met in my whole life, was a product of where he came from," he says. "If you didn't take the positions that Sen. Eastland did during that period, you were out of the Senate, out of the House of Representatives, out of consideration for any public post."

"The point I would like to make," says the man who delivered the senator's eulogy, "is that James Eastland was not a hater."

His wife, Evelyn, Bill Jr.'s mother, acknowledges that she also has problems with Sen. Eastland's civil rights record. "I just kept quiet about it," she says. "I knew my husband wasn't a prejudiced person."

FUNERAL BUSINESS

Rep. Espy never met Sen. Eastland, but he well knows "Eastland country" from his drives as a young man collecting debts for the family funeral business. He agrees that, race aside, Sen. Eastland "did a lot for Mississippi."

Rep. Espy, who has been criticized by a few in the black community for hiring whites since his 1986 election, had no hesitation about hiring the younger Simpson, whether on grounds of race or of the Eastland connection. But Bill Jr. at first sensed a chill from others. He recalls a job interview with Oleta Garrett, director of the district office: "She read my resume, and she knew my father had worked for Sen. Eastland. She didn't know my father well then; she does now. She was wondering, what is this young man going to be like?"

But Ms. Garrett, like the staff, wondered more about a young white man from Washington making the move to the Delta than about the family's Eastland link. "I had long since made peace with that faction," she says. "I actually like those old guys."

After several years, Bill Jr. says he has "built a bond" with the initially standoffish black farmers of the Delta while serving as a bridge to the district's whites. "Even the old white farmers who would have a lot of resentment of any black," he says, grudgingly appreciates Mr. Espy's efforts on their behalf—even if they can't bring themselves to acknowledge his status as their representative. "They might not refer to him as 'congressman,'" Mr. Simpson says, but "they'll say 'Mike's working for us.'"

As for Sen. Eastland, the Simpsons' lingering regret is his enduring reputation as a segregationist and his failure to adapt to changed times as did some others of his generation. "I know that hurts my father," says the son, "and it hurts me too."

TRIBUTE TO JUDGE SEYBOURN HARRIS LYNNE

Mr. HEFLIN. Mr. President, it is with great pride that I rise today to pay tribute to the most senior judge in the Federal court system, district and appellate. He is Judge Seybourn Harris Lynne, appointed to the Federal bench by President Harry S. Truman in 1946. He has dedicated over 53 years of distinguished service to the judicial system, with 46 of those years spent on the U.S. District Court for the Northern District of Alabama.

Judge Lynne is a native of Decatur, AL, and attended Auburn University—at that time known as the Alabama Polytechnic Institute—where he graduated with highest distinction. He earned his law degree at the University of Alabama in 1930. While in law school, he served as track coach and assistant football coach at the university. Upon graduation from law school, the future judge practiced law in a partnership formed with his father, Mr. Seybourn Arthur Lynne.

In 1934, Seybourn Lynne was elected judge of Morgan County Court. He remained in that position until January 1941, when he took over the duties of judge of the Eighth Judicial Circuit of Alabama. In December 1942, he resigned from the bench to voluntarily enter the military. After earning the rank of lieutenant colonel, he was relieved of active duty in November 1945 and awarded the Bronze Star Medal for gallant service against the enemy.

When an opening occurred on the Federal bench, Alabama Senators Lister Hill and John Bankhead were called upon to recommend an appropriate individual to be considered by the White House for judgeship. In January 1946, President Truman appointed Judge Lynne to the U.S. District Court for the Northern District of Alabama. In 1953, he became the chief judge, and in 1973, the senior judge.

As chief judge for the Northern District of Alabama, Judge Lynne has been known as an outstanding leader. His knowledge and management skills ensured a solid, working relationship between the Federal bench and the bar. The northern district has not been burdened with a stale and overripe docket, and the court's caseload is kept timely and current, thanks to Judge Lynne's leadership.

In addition to his administrative responsibilities, Judge Lynne has worked hard and carried a full caseload. In fact, even in senior status, he continues to work long hours and keeps a complete docket of cases. Over the years, Judge Lynne has been recognized as an outstanding mediator who often was able to reconcile competing interests in order to forge a thoughtful compromise. A number of businesses and individuals in Alabama are growing and thriving today due to his abilities as an arbiter who was able to settle complex and difficult disputes.

The judge has also been a notable community leader, serving in church, civic, school, and professional organizations. He is a lifetime deacon, Bible class teacher, and a trustee of Southside Baptist Church. He has served both the crippled children's clinic of Birmingham and the Eye Foundation Hospital of Birmingham as a trustee. In 1967, he served a term as president of the University of Alabama's Alumni Association.

Mr. President, it is indeed an honor to congratulate and commend Judge Seybourn Lynne for his many years of tireless work on behalf of the State and Federal benches, and of his community. He shines as a living example of the late President Truman's rich legacy.

THE NORTH AMERICAN FREE TRADE AGREEMENT

Mr. SIMPSON. Mr. President. I rise today to commend the President and the U.S. Trade Representative Carla Hills for the successful negotiation of the historic North American Free Trade Agreement. This agreement exemplifies the President's superb leadership in building trade bridges between the United States and the rest of the hemisphere.

The President negotiated this agreement carefully and deliberately—all the while consulting with Congress, and fully recognizing that Congress could accept or reject the agreement as a package. This historic agreement is an opportunity for our great country to

solidify its position in the vast global economic marketplace.

Many of the agreements worst critics—mostly of the political variety do not believe the administration has gone far enough in addressing environmental standards, border pollution, and safeguards to protect American workers.

The administration has established a solid foundation to deal with problems which may arise in those areas in the future. The NAFTA will increase our leverage and enhance environmental protection, especially in Mexico. Without an agreement, there is no starting point or any leverage for improving current Mexican environmental standards.

As the leaders in responsibly preserving the global environment, we have before us a great opportunity. When the President committed himself to negotiating the agreement, he immediately set up intergovernmental working groups to address environmental concerns—principally in the areas of air and water pollution, hazardous waste management, and emergency response actions.

President Bush committed $241 million and Mexico pledged $460 million over 3 years to implement an integrated border plan. Congress did not take the commitment seriously and cut his request by almost $100 million. Responsible development of an integrated border plan and adequate environmental protection will only be sustained by the ratification of this comprehensive free trade agreement.

The President seriously addressed worker adjustment programs in the NAFTA. Import-sensitive industries will have time to adjust to full competition. Tariffs will be gradually phased out over many years. Workers adversely affected by the NAFTA will receive assistance from a well-funded worker adjustment program. The President doubled funding for the Economic Dislocation Worker Adjustment Assistant Act to over $500 million. He is strongly committed to a smooth transition to a North American economy.

This trade agreement is like no other. It is the first step toward building a stronger America for the future. The world has become a global village. This agreement is about opening new doors—doors to future economic growth. We must think about what we want the American economy to look like in the future. We must broaden our economic horizons in order to create new opportunities and revitalize our economy.

A great economist, Robert Samuelson, once said, "The anticipation of change is often more upsetting than change itself, and a bit more candor would make the future a little less frightening * * *. With the NAFTA, President Bush and Carla Hills have given the American people an opportunity to solidify our national economic strategy and to afford all Americans—not just a select few—prosperity as a result of free trade.

REMOVAL OF INJUNCTION OF SECRECY

Mr. MITCHELL. Mr. President, as in executive session, I ask unanimous consent that the injunction of secrecy be removed from the Treaty on Open Skies (Treaty Document No. 102-37), transmitted to the Senate today by the President; and ask that the treaty be considered as having been read the first time; that it be referred, with accompanying papers, to the Committee on Foreign Relations and ordered to be printed; and that the President's message be printed in the RECORD.

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

The President's message is as follows:

To the Senate of the United States:

I transmit herewith, for the advice and consent of the Senate to ratification, the Treaty on Open Skies. I believe that the Treaty on Open Skies is in the best interest of the United States. By engaging all participating States actively in cooperative observation, the Treaty on Open Skies will strengthen international stability. The Treaty also provides an important means of increasing mutual understanding of military forces and activities, thus easing tensions and strengthening confidence and security, not only in the area covered by the Treaty, but in other areas as well.

The Treaty includes twelve Annexes, which are integral parts thereof. The Treaty, together with the Annexes, was signed at Helsinki on March 24, 1992. I transmit also, for the information of the Senate, the Report of the Department of State on the Treaty.

In addition, I transmit herewith, for the information of the Senate, five documents associated with, but not part of, the Treaty that are relevant to the Senate's consideration of the Treaty: Decision Number One on the Distribution of Costs Arising Under the Treaty on Open Skies in accordance with Annex L, Section I, paragraph 9, dated June 29, 1992; Decision Number Two on Additional Non-Destructive-Testing Equipment To Be Used by the Observed Party in accordance with Annex F, Section I, paragraph 7, dated June 29, 1992; Decision Number Three on Methodology For Calculating the Minimum Height Above Ground Level at Which Each Optical Camera Installed on an Observation Aircraft May Be Operated During an Observation Flight in accordance with Annex D, Appendix 1, Section III, paragraph 2, dated June 29, 1992; Decision Number Four on Minimum Camera Specification For an Observation Aircraft of an Observed Party Exercising its Right To Provide an Observation Aircraft For an Observation Flight, dated June 29, 1992; and Decision Number Five on Responsibility For the Processing of Film Used During an Observation Flight in accordance with Article IX, Section II, paragraph 2, dated June 29, 1992. Except for Decision Number One on the Distribution of Costs, these Decisions are legally binding.

The Decision on the Distribution of Costs Arising Under the Open Skies Treaty in accordance with Annex L, Section I, paragraph 9 has not been adopted by the Open Skies Consultative Commission (the implementing body of the Treaty made up of representatives from each State Party and the body which adopted the above-mentioned Decisions). The Open Skies Consultative Commission will adopt this Decision during its next session, scheduled for September 1992, and it will have the same legally binding status as the other Decisions. The Open Skies Consultative Commission has endorsed the current draft text of the Decision; however, agreement could not be reached on the issue of navigation fees which a great majority of the States Parties—including the United States—believe should be waived. Pending resolution of this issue, some States Parties—including the United States—have reserved their position on other cost issues.

The Open Skies Treaty establishes a regime of unarmed aerial observation flights over the entire territory of its 25 signatories (North Atlantic Treaty Organization Allies, Eastern European members of the former Warsaw Pact, and Russia, Ukraine, Belarus, and Georgia). The Treaty is designed to enhance mutual understanding and confidence by giving all participants, regardless of size, a direct role in observing military or other activities of concern to them. Covering territory from Vancouver to Vladivostok, Open Skies is the widest-ranging international effort to date to promote openness and transparency of military forces and activities. The Treaty allows for consensus decisions to improve sensors, to adjust quotas, and to admit new participants in order to enhance its effectiveness. The Open Skies principles may be applicable to States in other regions of the world as well.

The Treaty's operative provisions focus on four subjects:

—*Territory:* The entire territory of all participants will be accessible to aerial observation. Whereas the former Soviet Union had insisted on closing areas for national security reasons, the Treaty provides that only flight safety considerations may restrict the conduct of observation flights.

—*Aircraft:* Unarmed fixed-wing aircraft provided by either the observing or observed Party can be used.

All Open Skies aircraft and sensors must pass specified certification and inspection procedures to ensure that they meet the standards of the Treaty.

—*Sensors:* Open Skies aircraft may have video, panoramic and framing cameras for daylight photography, infra-red line scanners for a day/night capability, and synthetic aperture radar for a day/night all-weather capability. Photographic image quality will permit recognition of major military equipment, e.g., distinguishing a tank from a truck—allowing significant transparency of military forces and activities. Sensor categories and capabilities can be improved by agreement among the States parties. All equipment used in Open Skies must be commercially available to all participants. Data collected from the flights will be immediately shared by the observing and observed Parties, and may also be obtained by other States Parties.

—*Quotas:* Loosely scaled to size, each State Party has agreed to an annual quota of observation flights it is willing to receive (42 for the United States and Russia/Belarus to 2-4 for the smallest States Parties). States Parties may conduct as many observation flights as they are willing to receive.

The Treaty establishes an Open Skies Consultative Commission, composed of representatives designated by each State Party, to meet in Vienna, to promote the objectives and to facilitate the implementation of the provisions of the Treaty.

Therefore, I urge the Senate to give early and favorable consideration to the Treaty and its related Annexes, and to give advice and consent to its ratification.

GEORGE BUSH.

THE WHITE HOUSE, *August 12, 1992.*

AMTRAK AUTHORIZATION ACT

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 548, S. 2608, the Amtrak Authorization Act of 1992.

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

The assistant legislative clerk read as follows:

A bill (S. 2608) to authorize appropriations for the National Railroad Passenger Corporation, 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 Commerce, Science, and Transportation with amendments; as follows:

(The parts of the bill intended to be stricken are shown in boldface brackets and the parts of the bill intended to be inserted are shown in italic.)

S. 2608

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SHORT TITLE

SECTION 1. This Act may be cited as the "Amtrak Authorization Act of 1992".

AUTHORIZATION OF APPROPRIATIONS

SEC. 2. Section 601 of the Rail Passenger Service Act (45 U.S.C. 601) is amended to read as follows:

"SEC. 601. AUTHORIZATION OF APPROPRIATIONS.

"(a) GENERAL CAPITAL EXPENDITURES.—There are authorized to be appropriated to the Secretary for the benefit of the Corporation for making capital expenditures under this Act $300,000,000 for each of the fiscal years 1993, 1994, and 1995.

"(b) OPERATING EXPENSES.—

"(1) CORE SYSTEM.—There are authorized to be appropriated to the Secretary for the benefit of the Corporation for operating expenses $331,000,000 for each of the fiscal years 1993, 1994, and 1995. Of the amounts appropriated under this paragraph, not more than 5 percent of each fiscal year shall be used for the payment of operating expenses under section 403(b) of this Act for service in operation as of September 30, 1992.

"(2) NEW STATE-SUPPORTED SERVICE.—There are authorized to be appropriated to the Secretary for the benefit of the Corporation for operating expenses under section 403(b) of this Act and for other additional services commencing after September 30, 1992—

"(A) $5,000,000 for fiscal year 1993;

"(B) $7,000,000 for fiscal year 1994; and

"(C) $10,000,000 for fiscal year 1995.

The expenditure by the Corporation of funds appropriated for operating expenses under section 403(b) of this Act for service commencing after September 30, 1992, shall not be considered to be an operating expense for purposes of calculating the revenue-to-operating expense ratio of the Corporation.

"(c) MANDATORY PAYMENTS.—There are authorized to be appropriated to the Secretary $146,000,000 for fiscal year 1993, and such sums as may be necessary for each of the fiscal years 1994 and 1995, for the payment of—

"(1) tax liabilities under section 3221 of the Internal Revenue Code of 1986 due in such fiscal years in excess of amounts needed to fund benefits for individuals who retire from the Corporation and for their beneficiaries;

"(2) obligations of the Corporation under section 8(a) of the Railroad Unemployment Insurance Act (45 U.S.C. 358(a)) due in such fiscal years in excess of its obligations calculated on an experience-rated basis; and

"(3) obligations of the Corporation due under section 3321 of the Internal Revenue Code of 1986.

Funds appropriated under this subsection shall not be considered a Federal subsidy of the Corporation.

"(d) ADMINISTRATION OF APPROPRIATIONS.—Funds appropriated pursuant to this section shall be made available to the Secretary during the fiscal year for which appropriated, except that appropriations for capital acquisition and improvements may be made in an appropriations Act for a fiscal year preceding the fiscal year in which the appropriation is to be available for obligation. Funds appropriated are authorized to remain available until expended. Appropriated sums shall be paid by the Secretary to the Corporation for expenditures by it in accordance with the Secretary's budget request as approved or modified by Congress at the time of appropriation. Payments by the Secretary to the Corporation of appropriated funds shall be made no more frequently than every 90 days, unless the Corporation, for good cause, requests more frequent payment before the expiration of any 90-day period.".

BOARD OF DIRECTORS

SEC. 3. Section 303(a)(1)(E) of the Rail Passenger Service Act (45 U.S.C. 543(a)(1)(E)) is amended by adding at the end the following: "one of such members shall be specially qualified to represent the interests of rail passengers and shall be selected from a list of three qualified individuals recommended by the National Association of Railroad Passengers.".

CHIEF EXECUTIVE OFFICER

SEC. 4. Section 303 of the Rail Passenger Service Act (45 U.S.C. 543) is amended—

(1) in subsection (a)—

(A) in paragraph (1)(B), by striking "President" and inserting in lieu thereof "chief executive officer"; and

(B) in paragraph (4), by striking "President" and inserting in lieu thereof "chief executive officer"; and

(2) in subsection (d), by striking "president" each place it appears and inserting in lieu thereof "chief executive officer".

AUTHORIZATION OF PREFERRED STOCK

SEC. 5. Section 304(c) of the Rail Passenger Service Act (45 U.S.C. 544(c)) is amended by adding at the end the following new paragraph:

"(4) No amendment to the articles of incorporation of the Corporation shall be required for the issuance of the preferred stock required to be issued pursuant to this subsection.".

PROPERTY FINANCING

SEC. 6. Section 306(n) of the Rail Passenger Service Act (45 U.S.C. 546(n)) is amended to read as follows:

"(n) Neither the Corporation, nor any railroad subsidiary of the Corporation, nor any lessee or lessor of the Corporation or of any such railroad subsidiary shall be required to pay any additional taxes as a consequence of its expenditure of funds to acquire or improve real property, equipment, facilities, or rights-of-way materials or structures used directly or indirectly in the provision of rail passenger service. For purposes of this subsection, 'additional taxes' means taxes or fees (1) on the acquisition, improvement, ownership, or operation of personal property by the Corporation, any railroad subsidiary of the Corporation, or any lessee or lessor of the Corporation or of any such railroad subsidiary; and (2) on real property other than taxes or fees on the acquisition of real property, or an the value of real property which is not attributable to improvements made, or the operation of such improvements, by the Corporation, any railroad subsidiary of the Corporation, or any lessor or lessee of the Corporation or of any such railroad subsidiary.".

DISCONTINUANCE, MODIFICATION, OR ALTERATION OF CERTAIN RAIL PASSENGER SERVICE

SEC. 7. Section 403(d) of the Rail Passenger Service Act ([45] *45* U.S.C. 563(d)) is amended by striking the second sentence and inserting in lieu thereof the following new sentences: "On any date on or after October 1, 1993, if such service during the previous 6-month period has a *short-term avoidable* loss that exceeds the average loss per passenger mile for service over short-distance routes operated by the Corporation, the Corporation may elect to consider discontinuance,

modification, or adjustment of such service. If such election is made, the Corporation shall solicit public comment on alternatives to discontinuance, modification, or adjustment of such service. The public comment period shall be at least 30 days. Within 60 days after the expiration of that comment period, the Corporation may discontinue, modify, or adjust such service so that the applicable criterion is [met.".] *met. For purposes of this subsection, the calculation of short-term avoidable loss shall not include the cost of providing passenger equipment required to operate such service.".*

HIGH-SPEED RAIL TECHNOLOGY DEMONSTRATION PROGRAM

SEC. 8. Title VIII of the Rail Passenger Service Act (45 U.S.C. 642 et seq.) is amended by adding at the end the following new section:

"SEC. 811. HIGH-SPEED RAIL TECHNOLOGY DEMONSTRATION PROGRAM.

"(a) PLAN.—The Corporation shall develop a plan for the demonstration of new technologies in rail passenger equipment. Such plan shall provide that—

"(1) any new equipment procured by the Corporation that may significantly increase train speeds over existing rail facilities shall be demonstrated, to the extent practicable, throughout the national intercity rail passenger system; and

"(2) the Corporation shall, in order to facilitate the Corporation's efforts to increase train speeds, take steps to establish cooperative arrangements with eligible applicants that intend to propose technology demonstrations for financial assistance under section 309(b)(2) of title 49, United States Code.

"(b) REPORT TO CONGRESS.—The Corporation shall, not later than September 30, 1993, transmit to the Congress a report summarizing the plan developed under subsection (a) of this section, including its goals, locations for technology demonstration, and a schedule for implementation of the plan.".

HIGH-SPEED RAIL CORRIDOR DEVELOPMENT

SEC. 9. Title VIII of the Rail Passenger Service Act (45 U.S.C. 642 et seq.), as amended by this Act, is further amended by adding to the end the following new section:

"SEC. 812. HIGH-SPEED RAIL CORRIDOR DEVELOPMENT.

"(a) ENCOURAGEMENT AND ASSISTANCE.—The corporation shall actively encourage efforts by State and regional partnerships, study groups, private sector representatives, and other entities whose objective is to advance high-speed rail service through equipment upgrades and incremental infrastructure improvements on existing railroad facilities utilized by the Corporation outside the Northeast Corridor. To the maximum extent feasible through appropriate allocation of [exiting] *existing* resources, the Corporation shall offer planning assistance, marketing analysis and support, engineering expertise, and other assistance to [such] *Federal or State* entities in pursuit of this objective.

"(b) REPORT TO CONGRESS.—The Corporation shall report to Congress, in connection with the report required under section 811 of this Act, detailing the Corporation's efforts under this section and proposing further activities in support of high-speed rail service outside the Northeast corridor.".

SAFETY IMPROVEMENTS

SEC. 10. Title VIII of the Rail Passenger Service Act (45 U.S.C. 642 et seq.), as amended by this Act, is further amended by adding at the end the following new section:

"SEC. 813. RAIL AT-GRADE CROSSINGS.

"(a) RECOMMENDATIONS.—The Corporation shall, by June 30, 1993, and periodically thereafter, make recommendations to the Secretary for the elimination of hazards of highway at-grade crossings under section 104(d) of title 23, United States Code.

"(b) ELIMINATION.—

"(1) IN GENERAL.—The Secretary, in consultation with the States along the main line of the Northeast Corridor, shall develop a plan by September 30, 1993, for the elimination of all highway at-grade crossings of such main line by December 31, 1997.

"(2) EXCEPTIONS.—The plan developed under paragraph (1) of this subsection may provide that the elimination of a highway at-grade crossing not be required if eliminating such crossing is impracticable or unnecessary and the use of the crossing will be consistent with such conditions as the Secretary considers appropriate to ensure safety.

"(3) FUNDING.—The Corporation shall pay 20 percent of the cost of the elimination of each highway at-grade crossing pursuant to the plan developed under paragraph (1) of this subsection.".

EMERGENCY TRAINING AND RESPONSE

SEC. 11. Title VIII of the Rail Passenger Service Act (45 U.S.C. 642 et seq.), as amended by this Act, is further amended by adding at the end the following new section:

"SEC. 814. EMERGENCY TRAINING AND RESPONSE.

"(a) TASK FORCE.—The Corporation, together with representatives from each of the on-board service and operating employee crafts and unions, shall form a task force to consider recommendations for improving emergency training and performance of on-board service and operating crew members.

"(b) MATTERS TO BE CONSIDERED.—The task force formed under subsection (a) of this section shall consider, at a minimum—

"(1) whether the Corporation's emergency training and drill program as presently constituted is adequate, and if not, in what ways it can be augmented or improved;

"(2) whether medical first-aid training, including cardiopulmonary resuscitation, should be required for all on-board crew members;

"(3) whether the Corporation's requirements with respect to employee responsibilities for passenger evacuation, emergency communications, crew coordination, and disaster response should be revised; and

"(4) whether Federal certification of the Corporation's emergency training program and evacuation procedures, and certification of the emergency performance of on-board crew members, are warranted.

In considering the issue described in paragraphs (1) through (4), the task force shall address relevant prior recommendations and findings by the National Transportation Safety Board.

"(c) REPORT.—Not later than June 1, 1993, the task force shall report to Congress on its findings in subsection (b) of this section, together with a summary of actions implemented to date and recommendations for future action.".

PAYMENT BY AMTRAK OF COSTS OF CERTAIN NEW SERVICES

SEC. 12. Section 403(b)(1) of the Rail Passenger Service Act (45 U.S.C. 563(b)(1)) is amended by adding at the end the following new subparagraph:

"(C) Notwithstanding subparagraph (B)(iii) of this paragraph, in the case of the first rail passenger service under this subsection that commences after October 1, 1995, and serves a State not served by the Corporation as of the date of enactment of the Amtrak Authorization Act of 1992, the Corporation shall pay 75 percent of the long-term avoidable loss associated with the operation of the service in the first year and 50 percent of such loss in the second year of operation. Any losses associated with operation of the service in the third year and thereafter shall be allocated under the Corporation's then-applicable policy for this subsection.".

COLUMBUS AND GREENVILLE RAILWAY

SEC. 13. (a) IN GENERAL.—Title V of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 821 et seq.) is amended by adding at the end the following new section:

"COLUMBUS AND GREENVILLE RAILWAY

SEC. 518. (a) LIMITATION OF UNITED STATES INTEREST.—Notwithstanding any other provision of this title, the Secretary shall limit the interest of the United States in any debt of the Columbus and Greenville Railway under sections 505 and 511 of this title to an interest which attaches to such debt in the event of (1) bankruptcy, or (2) substantial sale or liquidation of the assets of the railroad, the proceeds of which are not reinvested in the operations of the railroad. The Secretary may substitute for the evidence of such debt contingency notes payable solely from the railroad operating assets then securing such debt, including reinvestments thereof, or such other contingency notes as the Secretary deems appropriate and which conform to the terms set forth in this section.

"(b) HIGHER PRIORITY FOR NEW DEBT.—If the interest of the United States is limited under subsection (a) of this section, any new debt issued by such railroad subsequent to the issuance of the debt described in such subsection may have such higher priority in the event of bankruptcy, liquidation, or abandonment of the assets of such a railroad than the debt described in such subsection as the Secretary and the railroad may agree.".

(b) CONFORMING AMENDMENT.—The table of contents in the first section of the Railroad Revitalization and Regulatory Reform Act of 1976 is amended by inserting immediately after the item relating to section 517 the following new item:

"Sec. 518. Columbus and Greenville Railway.".

Mr. EXON. Mr. President, as chairman of the Surface Transportation Subcommittee, I rise in support of S. 2608, the Amtrak Authorization Act of 1992. I am pleased to note that the chairman of the full Committee on Commerce, Science, and Transportation, Senator HOLLINGS, cosponsors this legislation with me. Other cosponsors include Senators KASTEN, BURNS, LOTT, ADAMS, SIMON, BRADLEY, CONRAD, GRASSLEY, and LAUTENBERG.

Consideration of this legislation in the 102d Congress comes at a time when the National Railroad Passenger Corporation, better known as Amtrak, has enjoyed increasing recognition as an integral component of the Nation's intercity transportation system. This recognition parallels Amtrak's steadily improving operating cost/revenue ratio—79 percent in fiscal year 1991, which reflects a change in accounting for mandatory retirement and mandatory unemployment payments—and the growing awareness of the potential benefits of, and possible future contribution of Amtrak to, the application of new high-speed rail technologies in intercity corridors across the Nation.

In many areas of the country, Amtrak offers a needed passenger transportation alternative to the highway and aviation modes. In my home State of Nebraska, for example, Amtrak stops in Omaha, Lincoln, Hastings, Holdrege, and McCook. I firmly believe that as Amtrak moves closer toward its proclaimed goal of self-sufficiency, we should view continuing Federal support for Amtrak as an investment in our national mobility.

S. 2608, the measure now before the Senate, would authorize appropriations for Amtrak for the fiscal years 1993, 1994, and 1995. This legislation charts the way for continued improvements in Amtrak service and safety, stimulates the introduction of new service and passenger rail technologies, and addresses a number of pending managerial and financial issues.

Before commenting further on a number of important provisions in this bill, I would like to address several amendments submitted for consideration with S. 2608. The first amendment, by Senators KERRY and KENNEDY, would provide for an authorization for fiscal year 1993 to support continued work on the Northeast Corridor Improvement Project [NECIP]. When complete, NECIP is expected to reduce the travel time between Boston and New York to under 3 hours through electrification and upgrade of the rail line to permit speeds of up to 150 miles per hour, elimination of various congestion bottlenecks, and purchase of new high-speed passenger equipment. I support the amendment, not only because new high-speed rail service in the Northeast could help alleviate congestion in that densely populated portion of the country, but also because improved train service could free scarce airline gates and slots in the region's crowded airports, thus opening up the potential of more direct flights from other sections of the country, such as Omaha, NE.

An amendment offered by Senator MOYNIHAN would require Amtrak to complete a study, by March 1993, of the feasibility of developing the James A. Farley Post Office Building, across the street from the existing Penn Station in Manhattan, as Amtrak's primary facility for handling intercity passengers traveling to and from New York City. I understand that the post office soon intends to vacate a large part of this impressive Roman Revival building, constructed in 1913 and designed by the same architects who developed the plans for the original Pennsylvania Station. The study called for in the amendment holds the promise of converting an existing landmark into a new gateway to the largest city in the Northeast corridor, and analysis of this possibility is entirely in keeping with the eventual arrival of true high-speed rail service both north and south of New York through NECIP.

The third amendment, by Senator KASSEBAUM, would require that FRA prescribe rules within 6 months of enactment mandating that alerting lights be affixed to the front of locomotives on the leading end of intercity passenger, commuter, and freight trains. The amendment would require new locomotives to be equipped with such lights within 90 days after issuance of these rules, and all other trains to be similarly equipped within 24 months of that date. Scenic, excursion, and historic trains, and locomotives used exclusively for switching, may be excluded from these requirements if the Secretary of Transportation determines that the exclusion is in the public interest and consistent with railroad safety.

Just 2 weeks ago, the Surface Transportation Subcommittee, which I chair, held a hearing on highway/railroad grade-crossing safety and on the substance of Senator KASSEBAUM's proposal. The testimony at the hearing clearly indicated the need for continued attention to the problem of grade-crossing safety, and I believe that making locomotives more visible through alerting lights represents a significant step in the right direction. Clearly, upgrading grade-crossing protection with flashing lights or gates or closing unneeded crossings entirely in appropriate locations would further enhance safety, but making locomotives easier to see, particularly at night, is a needed measure and one which I support.

I would note that as reported by the Commerce Committee, S. 2608 specifically addresses grade-crossing safety in the context of Amtrak passenger trains by requiring Amtrak to make recommendations by September 30, 1993, and periodically thereafter, to the Secretary of Transportation in connection with the at-grade crossing elimination program adopted pursuant to the 1991 surface transportation reauthorization legislation. In addition, the bill would require the Secretary, in consultation with the States along the main line of the Northeast corridor, to develop a plan for the elimination of all highway at-grade crossings along the Northeast corridor main line by December 31, 1997, except where such elimination would be impracticable or unnecessary. Amtrak would be required to pay 20 percent of the cost of all at-grade crossings eliminated under this section.

Turning to the reauthorization provisions of the legislation, S. 2608 authorizes operating expenses for the Amtrak core system of $331 million for each of fiscal years 1993, 1994, and 1995. New State-supported services benefit from a separate authorization, $5 million for fiscal year 1993, $7 million for fiscal year 1994, and $10 million for fiscal year 1995. The bill also authorizes Amtrak capital expenditures of $300 million for each of fiscal years 1993, 1994, and 1995. Mandatory payments for Amtrak's contribution for railroad retirement benefits and railroad unemployment insurance obligations required by law above the cost attributable to Amtrak employees are authorized at $146 million for fiscal year 1993 and such sums as may be necessary in fiscal year 1994 and fiscal year 1995.

Regarding the amounts authorized specifically for introduction of new Amtrak service, it is my understanding that these sums should be sufficient to encompass, over the 3 years of the bill, most anticipated State requests for new service of which Amtrak is aware, provided that the necessary State financial, equipment, and facility contributions are forthcoming. Further, assuming funding is available under this section and State commitments are fulfilled, Amtrak advises me that the potential for new State-supported service exists in the following as well as other possible areas: First, in fiscal year 1993, a second North Carolina train, a fourth San Joaquin train, a second Pennsylvania train, and New Orleans-Mobile service; second, in fiscal year 1994, Maine service, Vancouver-Seattle-Portland service, a tenth San Diego train, and a third and fourth Santa Barbara train, and third, in fiscal year 1995, Omaha-Chicago service through Iowa, and Oklahoma service.

In addition, another section of the bill would provide greater flexibility to the three States currently without Amtrak service—Maine, Oklahoma and South Dakota—to enable them to comply with the otherwise applicable cost-sharing requirements. To encourage new service to these States under this provision, Amtrak would pay 75 percent of the long-term avoidable loss associated with the operation of the service in the first year and 50 percent of such loss in the second year of operation. Any losses associated with operation of the service in the third and following years are to be allocated in accordance with existing requirements applicable to all States.

S. 2608 also includes a number of provisions intended to address certain managerial and financial issues, sharpen Amtrak's overall mandate, and improve rail passenger service and safety. For example, the bill would require that one member of the Amtrak board of directors—of the two appointed by the preferred stockholders—be qualified to represent the interest of rail passengers. The bill also would amend the Rail Passenger Service Act to create a new position of chief executive officer, who would represent the corporation on the board of directors.

Several provisions in the bill would further facilitate managerial and financial improvements in Amtrak's operation. One section would eliminate Amtrak's need annually to amend the corporate bylaws to authorize issuance

of preferred stock to the Federal Government. Such stock is issued each year in an amount equal to newly appropriate Federal support. A second section in the bill would revise current statutory restrictions to permit Amtrak to participate in conventional sale/leaseback equipment transactions, lowering financing, and transaction costs to Amtrak. A third section of the bill would permit Amtrak greater flexibility in structuring its operations and operate effectively in a fiscally responsive manner by allowing Amtrak to discontinue, modify, or adjust certain rail commuter services operated pursuant to section 403(d) of the Rail Passenger Service Act.

The legislation further calls for the formation of a task force comprised of representatives from Amtrak and each of the on-board service employee and operating crafts to consider recommendations for improving emergency training and performance of onboard crew members. S. 2608 also would require Amtrak to channel resources into planning for the future introduction of high-speed rail passenger service in intercity corridors across the United States by developing an overall strategic plan for new technology demonstration, and by encouraging regional high-speed implementation efforts. Finally, the legislation provides for the subordination of Federal loans to the Columbus and Greenville Railway in order to improve this railroad's capital and ensure continued rail service in the Mississippi region.

In conclusion, Mr. President, I believe that the Amtrak Authorization Act of 1992 strikes a fair balance between Federal resources constrained by the budget deficit, and our Nation's need to ensure a vital and viable rail passenger transportation alternative to our highway and aviation modes. S. 2608 provides a firm foundation for Amtrak's continued progress, and I look forward to working with the bill's cosponsors and my distinguished colleagues to ensure the swift passage of this meritorious legislation.

Mr. HOLLINGS. Mr. President, I rise in strong support of the legislation before us, the Amtrak Authorization Act of 1992, which will help to assure the long-term viability of our national rail passenger system.

During a hearing in February of this year, the Surface Transportation Subcommittee reviewed carefully Amtrak's record to determine whether changes in Amtrak's mission were appropriate. In this regard, concern was raised that insufficient capital funding in the past may have prevented Amtrak from investing in equipment and facility improvements necessary for its future profitability. As a result of this examination, the Commerce Committee concluded that the operating and capital needs of Amtrak must be met to ensure the viability of our present rail passenger system. The bill before us today addressed these objectives.

I am pleased to join Senator EXON, chairman of the Surface Transportation Subcommittee, and other Senators in urging swift passage of this legislation. It provides Amtrak with an authorization of funds for operating expenses and for capital expenditures sufficient to maintain the current network of service. In order to provide Amtrak with greater flexibility to promote expansion in areas where ridership potential can be documented, the legislation includes a separate authorization for new State-supported and other services. It also includes provisions directing Amtrak to report to Congress regarding high-speed rail technology and corridor development.

Also included in the legislation is a provision which calls for the formation of a task force comprised of representatives from Amtrak and each of the onboard service employee and operating crafts to consider recommendations for improving emergency training and performance of onboard crew members. My concern as to whether Amtrak is providing sufficient emergency training for these employees stems, in part, from questions raised about inadequate response to those injured in the Amtrak accident that occurred in Lugoff, SC, last summer. I believe that this task force will provide the needed examination in this area.

This legislation is important for the future of rail passenger service, and I urge my colleagues to support its passage.

Mr. LAUTENBERG. Mr. President, I want to express support for this legislation, which would reauthorize Amtrak and important related rail programs. I am pleased to join in cosponsoring this bill, and commend Senator EXON for working to bring it to the Senate floor.

The bill we are considering today would authorize capital, operating, and mandatory retirement benefits funding for Amtrak for 3 years, and makes a series of changes to structure and functioning of the Amtrak board that should make the organization more efficient. Additionally, the bill reported by the Commerce Committee would promote the development of a strategy for high-speed rail throughout the country, and improve safety through the implementation of the grade crossing elimination program authorized in the Intermodal Surface Transportation Efficiency Act of 1991. I note that several amendments to be offered during floor consideration will make this bill a better one. I will discuss those amendments shortly.

America needs a strong passenger rail network, and I take a back seat to no one in my support of passenger rail service in this country. As chairman of the Senate Transportation Appropriations Subcommittee, I have worked to provide funding to keep Amtrak going. Year after year, the Reagan and Bush administrations have submitted budget requests that would have meant the end of passenger rail service in this country. Each time, I have worked to ensure that Amtrak has the resources it needs to continue serving the 22 million intercity passengers and 18 million commuters who depend on trains for travel each year.

I am pleased to say that, while preserving Amtrak's existing services, we've also been able to begin work on an important project to expand and improve Amtrak. Today, 11 million passengers—half of Amtrak's total intercity ridership—are in the Northeast corridor, from Washington to Boston.

It is projected that those numbers could increase considerably if the electrification of the Northeast corridor were completed on the north of the corridor, between New Haven, CT, and Boston. For the last 2 years, in spite of no budget requests from the administration and no funding in the House-passed bills, I have been able to earmark $281.5 million for the north end electrification project. I would note that the fiscal year 1993 transportation appropriations bill, passed last week by the Senate, includes an additional $168 million for electrification and other improvements to the north end. All in all, $204 million is provided in the Senate-passed appropriations bill for the Northeast corridor improvement project [NECIP].

The goal of the electrification project is to reduce travel time between New York and Boston to under 3 hours, as it is on the south end, between New York and Washington. This could take pressure off of the crowded air routes in the region, and help eliminate the need for another airport in the Boston area. Frankly, it's a project that should have happened years ago. But, the administration refused to get on board, and it wasn't until 2 years ago, when I was able to earmark the start-up funds, that it finally got on track.

The amendment to be offered by Senator KERRY, which will provide a 1-year, $220 million authorization for NECIP, is an important step in keeping this project moving forward. Although much of the public focus has been on the north end electrification, that is not the entirety of the NECIP program. Important safety and efficiency improvements continue to be made on the south end, including in my State, New Jersey. For example, communications and electric upgrades are being made in the south end, and in 1993, with NECIP funds provided through the appropriations process, Amtrak will test the Swedish X-2000 tilt train, to see if it can be used to improve speed throughout the corridor.

Mr. President, it is absurd that the United States has sat by and watched

other countries develop high-speed rail systems while the last two administrations fought to kill off our own. As other developed countries have found, high-speed rail is an efficient, environmentally-friendly, and affordable means of moving people. I have often said that, as part of a national transportation policy, we should promote balance among modes. We should look at city-pairs within distances of 200–300 miles, and promote the most efficient and reliable means of linking them. Even leaving aside major environmental questions, does it make sense to talk about spending billions of dollars for another Boston-area airport, when we could spend $900 million and have in place by 1997 a high-speed rail system that could better serve the region? This Senator says no.

I would also like to express my support for an amendment that my good friend from New York, Senator MOYNIHAN, will offer to this authorization. This amendment directs Amtrak to conduct a detailed assessment of the potential shift of its operations from Penn Station in New York to the old Post Office, located just across 8th Avenue. This move could help improve the efficiency of Amtrak's operations in New York, as well as those of New Jersey Transit and other commuter railroads. I look forward to Amtrak's report, and commend my friend from New York for pushing the consideration of this change.

Mr. President, Amtrak has proven itself to be a vital and efficient provider of rail service for millions of Americans. Over the last decade, Amtrak President Graham Claytor and his staff have worked to improve efficiency in the face of shrinking budgets. With some troubling labor disputes now approaching resolution, Amtrak's future should be a bright one. This authorization package can keep it moving in the right direction. I urge my colleagues to support this bill.

Mr. SIMON. Mr. President, I am proud to join my distinguished colleagues, Senator EXON of Nebraska and Senator HOLLINGS of South Carolina in cosponsoring the Amtrak Authorization Act of 1992. Amtrak has in the past and will continue to be the bedrock of a modern passenger rail system for the Nation. When Amtrak, in cooperation with the States and the private sector, achieves the necessary financing to develop that system; intercity and commuter passenger rail could become one of the key economic engines of the 1990's.

Those of us who are promoting a first class high speed rail system have recognized that there is plenty of underused rail capacity in this Nation and that the cost of upgrading this system is far less for the American taxpayer than building only highways and airports. All of that cost will be returned through new jobs in research and engineering, high speed railcar and locomotive manufacturing, and local construction jobs.

Countless other benefits outweigh the costs of rail system development. Rail anchors urban economic development and jobs, provides access to those jobs, lowers the costs of transportation deaths and injuries, cuts air pollution, reduces the trade deficit and economic shocks when oil prices rise, and frees up commuters from endless traffic jams.

Rebuilding hundreds of our rail oriented cities and towns cannot be accomplished without good transportation. We can't land a Boeing 747 on Main Street or accommodate more automobiles in severely congested urban areas. Now, thanks to the new intermodal surface transportation program, we are free to build the kind of transportation that makes the most sense for each region in the Nation.

Union Station in the District of Columbia is the flagship of Amtrak's intermodal transportation development on the Northeast Corridor where a good rail system has exceeded our expectations for reducing airport and highway congestion while recapturing its operating costs. I am working to see Chicago, IL; and the other midwestern States with the most extensive rail network in the world, follow this example. Illinois is now cooperating with Amtrak and investing funds to plan for a high speed rail system between Detroit, Chicago, and St. Louis; and between Chicago, Minneapolis, and St. Paul.

We also need to upgrade service between Chicago and Carbondale and restore service to the two second largest cities in Illinois, Peoria, and Rockford. The Illinois-Iowa Quad Cities of Rock Island, Moline, Bettendorf and Davenport are equally strong candidates for Amtrak service which would also serve other northern Illinois cities such as Dixon and DeKalb, the only Illinois university town without Amtrak service.

This bill is a compromise between the constraints of our budget deficit and the overwhelming need to plan for a safer, environmentally sound, city friendly passenger rail system now. I urge my colleagues to vote for this important bill so that all States can continue to make progress and look forward to the next generation of passenger rail in this Nation.

Mr. DOLE. Mr. President, I am pleased that my colleague from Kansas, Senator KASSEBAUM, has come to the floor today to address the critical issue of train lighting. Recently, the Surface Transportation Subcommittee heard testimony from Lynda McCue of Hutchinson, KS regarding the tragic train accident last February that took the lives of her daughter Stephanie, and her two friends Lisa Steinert and Marlee Bretz.

I was with the Steinert and McCue families last week and appeared before the subcommittee myself. I know that whatever action we take here today will not bring back these three special girls. However, I am hopeful we can take this tragic experience and turn it into a positive action that will protect lives in the future.

In addition, I am pleased that a compromise package appears to have been worked out by staff and members of the committee. I would commend Senator KASSEBAUM for her work on this issue.

Mr. President, I would ask unanimous consent that a copy of my statement to the subcommittee be submitted for the RECORD.

STATEMENT OF SENATOR BOB DOLE BEFORE THE SUBCOMMITTEE ON SURFACE TRANSPORTATION

Mr. Chairman, thank you for the opportunity to comment on S. 2644, the so-called "ditch lighting" bill introduced by Senator Kassebaum. As you know, I am a co-sponsor of this legislation. I particularly appreciate your willingness to hold this hearing and allowing testimony from Lynda McCue on behalf of the Steinert, McCue and Bretz families who tragically lost their daughters Stephanie McCue, Lisa Steinert and Marlee Bretz last February when the car they were traveling in collided with a freight train in Hutchinson, KS. Mr. Chairman, nothing we say here today will bring these young women back to their families. However, I firmly believe we can turn tragedy into a positive force if it results in greater rail safety and fewer accidents.

In Kansas we have had a number of fatal railroad crossing accidents this year that underscore the point that we need to continue to find ways to reduce fatal accidents at railroad crossings.

Senator Kassebaum has offered this legislation as one solution. Requiring the railroads to install ditch lights on locomotives clearly will provide an added degree of warning and visibility that may mean the difference between life and death.

Mr. Chairman, I have been in direct contact with the major railroads and the Federal Railroad Administration on this issue. At Senator Kassebaum's and my request, FRA and other Federal and State officials went back out to the site of this accident to take another look at the crossing and reassess the safety of the site and the railroad's actions leading up to the accident.

One thing that is clear to me, and I would hope the committee and the Federal Railroad Administration would concur, is that safety is a total effort. The lighting of trains—including current industry efforts to install strobe and ditch lights on new locomotives; the reflectorized tape study now being conducted by FRA to illuminate the sides of trains; the upgrading of crossing signals at intersections; and increased educational efforts such as "Operation Lifesaver", all play a role toward our common goal: Eliminating Accidents at Railroad crossings.

Mr. Chairman, the Steinert, Bretz and McCue families have suffered the kind of loss no family should have to endure. I believe the families have done a great service here to day as the catalysts for this hearing. I know they will want to describe for you their feelings on this issue themselves. I am also certain you will be hearing from the

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FRA and railroad industry representatives as to their views here today.

Mr. Chairman, while I recognize there are differing opinions as to the appropriate course to take on this issue, I know we all share the common belief that safety is the number one priority for all of us. We should continue to push for ways to improve safety in a comprehensive manner. As you listen to the testimony here today, I urge the committee to take a close look at this legislation before you.

The PRESIDING OFFICER. Without objection, the committee amendments are agreed to.

AMENDMENT NOS. 2940, 2941, AND 2942

Mr. MITCHELL. Mr. President, I ask unanimous consent that it be in order to send to the desk en bloc three amendments, one (No. 2940) on behalf of Mr. KERRY, one (No. 2941) on behalf of Mr. MOYNIHAN, and one (No. 2942) on behalf of Mrs. KASSEBAUM; that the amendments be considered agreed to en bloc, and the motion to reconsider laid upon the table; that any statements relating to these amendments and the bill be placed in the RECORD at the appropriate point.

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

The amendments agreed to en bloc are as follows:

AMENDMENT NO. 2940

On page 3, between lines 9 and 10, insert the following:

"(c) NORTHEAST CORRIDOR.—There are authorized to be appropriated to the Secretary for the benefit of the Corporation for making capital expenditures under title VII of the Railroad Revitalization and Regulatory Improvement Act of 1976 (45 U.S.C. 851 et seq.) $220,000,000 for fiscal year 1993.

On page 3, line 10, strike "(c)" and insert "(d)".

On page 4, line 5, strike "(d)" and insert "(e)".

NORTHEAST CORRIDOR IMPROVEMENT PROJECT

Mr. KERRY. Mr. President, today I am offering what I believe is a very important amendment to the Amtrak Authorization Act of 1992 that would authorize continued funding for the Northeast corridor improvement project. That project, initiated in 1976, is responsible for preserving and upgrading the Nation's most heavily traveled rail line. Last year, some 11 million intercity rail passengers and 65 million commuter rail passengers traveled on the Northeast Corridor between Washington and Boston. In Massachusetts, where the State owns the track between Boston South Station and the Rhode Island border, millions of commuter and intercity rail passengers travel every year on the Northeast corridor and, indeed, the economy of my State is substantially dependent on that rail line.

In addition, freight rail carriers moved over 25 million tons of freight to shippers along the Northeast corridor, some of which have no other readily available source of transportation. In the absence of the rail line, it would cost this Nation billions upon billions of dollars to provide alternative transportation to those who depend on Amtrak and commuter trains operating in the corridor—more highways and airports in a region of the country that can handle neither. Efficient, fast, rail passenger service offers and environmentally superior mode of transportation to a region choking on congestion and poor air quality.

My amendment would authorize $220 million in Federal investment in the Northeast corridor to continue the program of improvements both north and south of New York that are essential to maintain the high-speed rail line. In addition, and particularly important for my State, it would provide funds for Amtrak's ambitious project to reduce travel time between Boston and New York to under 3 hours. The project consists of electrifying the railroad between New Haven and Boston—the only portion of the Northeast corridor on which diesel locomotives must operate—and upgrading the rail line to permit speeds of up to 150 mph. In addition, various congested bottlenecks will be eliminated in areas where intercity and commuter passenger trains operate. Finally, Amtrak will acquire state-of-the-art, high-speed passenger equipment capable of providing true high-speed service.

This is a pilot program for incrementally improving an existing, conventional rail line to permit high-speed service. The signal, traffic control, and rail infrastructure technologies developed for this project, as well as the development of high-speed passenger locomotive and car technology, will be directly applicable to other rail corridors across the country, including those in California, the Pacific Northwest, the Midwest, and elsewhere. Thus, this project holds potential benefit for all regions of the Nation.

Amtrak estimates that the cost of the incremental improvements required to reduce travel time to under 3 hours is approximately $900 million, some $280 million of which already has been appropriated. High-speed rail equipment, which would operate along the entire Northeast corridor from Washington to Boston, is expected to cost an additional $450 million.

In an era of $15 billion airports and highway expansion projects costing multiple billions of dollars—which do little for the quality of the air we breathe but add considerably to congestion—a modest $1.3 billion program to immensely improve service on a major rail artery makes good transportation and economic sense. Passenger trains provide the most energy-efficient and environmentally benign form of transportation—a factor with enormous relevance in a region of the country dependent on foreign sources for fuel and facing tough new air quality standards. Hourly express trains and hourly nonexpress trains will provide service on par with that south of New York, where Amtrak carries more passengers than either of the air shuttles. Indeed, Amtrak and the Coalition of Northeastern Governors estimate that as many as 3 million additional passengers will divert from airplanes or automobiles to ride the train. This, in turn, will ease congestion at Logan and the New York airports—for those traveling longer distances—and on the parking lot we fondly know as I–95, as well as provide a substantial improvement in air quality in the region.

In the process, a substantial flow of construction money will flow to the very hard-pressed Northeast to improve rail facilities and bridges and to install the electrification system. This means jobs for local residents and contracts for the area's businesses. Clearly, this is a win-win development for nearly everyone in the region.

I want to thank Chairman HOLLINGS and Chairman EXON for their support for my amendment. Their efforts over the years to improve rail passenger service in this country have played a critical role in Amtrak's success and in providing this Nation with an alternative to congestion. I also would be remiss if I did not acknowledge the vital role that my distinguished colleague from New Jersey, FRANK LAUTENBERG, has played in both the funding of the Northeast corridor improvement project and the specific program to upgrade service between New York and Boston. Without his vision for a future transportation system that fully utilizes the benefits of rail passenger service, and his leadership on this issue in the Appropriations Subcommittee on Transportation and related agencies, which he chairs, the New York-Boston project would still be on the drawing board. On behalf of all of us from the Northeast, I want to express sincere thanks to Senator LAUTENBERG, and to Chairmen HOLLINGS and EXON, for their efforts to this end. I also want to thank ranking members DANFORTH and KASTEN for their cooperation and for their willingness to accept this amendment. Further, Commerce Committee professional staff member Don Itzkoff and other members of the Commerce staff have been very helpful and are due our appreciation.

Mr. President, I urge my colleagues to accept my amendment as a means of bringing important transportation, economic, and environmental benefits to a region that badly needs all three. In the process, we will be demonstrating to the rest of the Nation the local and regional benefits of a vibrant, environmentally superior mode of public transportation.

NORTHEAST CORRIDOR IMPROVEMENT PROJECT

Mr. KENNEDY. Mr. President, it is a privilege to be a sponsor of this measure authorizing continued funding for Amtrak's high speed rail development project along the Northeast corridor. I

commend my colleague from Massachusetts, Senator JOHN KERRY, for introducing this legislation that will bring important benefits to our region.

Under the Northeast corridor improvement project, Amtrak is upgrading the most heavily traveled passenger railline the country, which serves Washington, DC, New York City, Boston, and the many communities along that route. The project represents the first main effort to demonstrate the viability of high-speed rail service in the United States. The large number of businesses and individuals who rely on this route will reap substantial benefits if this project is successful.

For Massachusetts, the goal of reducing rail traveltime between New York and Boston to less than 3 hours is particularly important. High-speed rail service will provide an excellent alternative to highway and air travel. It will significantly reduce congestion and pollution, and enhance economic activity as travel becomes more efficient and convenient. Other countries have been successful in developing high-speed rail travel, and the United States can enjoy similar success.

I also commend the chairman of the Transportation Appropriations Subcommittee, Senator FRANK LAUTENBERG, for his vision and strong leadership in providing funds to keep the Northeast corridor improvement project moving forward in a timely way. I join my colleagues from the New England delegation in thanking him for his tireless efforts on behalf of this project.

AMENDMENT NO. 2941

At the appropriate place, insert the following new section:

NEW YORK CITY STATION FACILITIES

SEC. . Title VIII of the Rail Passenger Service Act (45 U.S.C. 642 et seq.), as amended by this Act, is further amended by adding at the end the following new section:

"SEC. 815. NEW YORK CITY STATION FACILITIES.

"The Corporation shall develop a plan for new or redeveloped station facilities in New York City, New York, to accommodate the intercity rail passenger service requirements of the Corporation, along with the needs of commuter rail services currently using New York Penn Station. In developing the plan, the Corporation shall consider use of the James A. Farley Post Office building as the primary facility for handling intercity passengers, shall evaluate and attempt to reach agreements concerning sources of State, local, and private funding, and shall determine the future allocation of space and costs in the existing Penn Station and new facilities among all transportation services using the facilities. The plan shall also address potential changes in existing laws that would aid development of new or redeveloped station facilities in New York City. The Corporation shall report to the Congress on the plan no later than March 1, 1993.".

AMTRAK—FARLEY POST OFFICE CONVERSION PLAN AMENDMENT

Mr. MOYNIHAN. Mr. President, 30 years ago, we witnessed what the New York Times critic Paul Goldberger recently called "the greatest single act of architectural vandalism New York has ever seen—the unconscionable destruction of one of the noblest buildings in American history." That building, of course, was Pennsylvania Station, designed by McKim, Mead & White. It was replaced by the gleaming if entirely undistinguished darkened glass of Madison Square Garden and the Penn Towers. The rail station was relegated to a dark, dank basement.

The amendment I am offering today represents a chance to reclaim part of New York City's lost architectural legacy. Just behind the current Penn Station, on Eighth Avenue, is the James A. Farley Post Office, known generally in New York as the GPO. This grand building was designed by the very same McKim, Mead & White to complement their Pennsylvania Station.

It happens that just as Amtrak must begin planning for much needed improvements to the current Penn Station, the Post Office is largely abandoning the Farley Building. And so we have begun to think about the possibility of somehow converting the Farley Building to a new, flagship intercity rail station, along the lines of Union Station here in Washington.

Financing such a project will be difficult, especially in light of Amtrak's pressing capital needs. This project cannot go forward without a substantial commitment from State, local, and private funding sources. I, for one, would like to see New York State commit its ISTEA money that must be spent on transportation enhancement activities to the project. Quite simply, my amendment directs Amtrak to develop a real plan for this project and how to pay for it, considering not only Amtrak's intercity service needs, but also those of the commuter railroads that serve Penn Station.

Mr. President, David Reisman used to say that America is the land of the second chance. With this project, New York City may yet prove the point. I appreciate the support of the managers of the bill, and urge adoption of the amendment. I also ask unanimous consent that an article by Paul Goldberger of the New York Times appear in the RECORD.

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

[From the New York Times, May 24, 1992]

SOME WELCOME FIDDLING WITH LANDMARKS

(By Paul Goldberger)

Two proposals to change the face of New York saw the light of day in the last couple of weeks, and they may or may not have something to do with each other. No, strike that. Actually, they have quite a bit to do with each other. Each plan is about giving the public what it wants, and about the realization by people in authority that what the public wants in architecture is not always what it has been given. And each in its own way holds out no small degree of hope for this beleaguered city.

The more striking of the two proposals—and the one that seems almost too good to be true—is the suggestion floated by Amtrak officials that the railroad abandon the present Penn Station, that wretched thing undeserving of the noble name it bears, and build a new train station within the shell of the old Post Office across Eighth Avenue, due to be largely vacated in 1993. Amtrak's spokesman even talked of the "marketability of architecture" as an aid to train travel.

Could this really happen? Did we ever think that the day would come when a railroad would admit that the quality of a train station might have some connection with the public's willingness to travel on trains? And that Amtrak might take it upon itself to liberate us from that ghastly place that combines the elegance of a subway station with the charm of an airport?

Pinch me, please; I'm obviously having an architectural dream. Such things don't happen, certainly not in New York. The demolition of Penn Station in the early 1960's was the greatest single act of architectural vandalism New York has ever seen—the unconscionable destruction of one of the noblest buildings in American history. Designed by McKim, Mead & White, the old Pennsylvania Station was at once a stirring gateway to the city and an utterly brilliant work of engineering and urban planning. The same architects designed the post office across the street as a companion piece to the classical station, so there is poetic justice to this plan to place a new station behind the great colonnade of the post office: history's cruel slight to McKim, Mead & White reversed.

A lot could go wrong, of course. Amtrak could be unable to come up with the $100 million needed to turn the post office into a work able station (the tracks are already under it, making access easy; the problem is reworking the interior spaces). The design could turn out to be awful. But in a period of such miracles as Donald Trump's abandonment of his Trump City scheme and the United States Supreme Court's decision to let stand the prohibition against erecting a skyscraper beside St. Bartholomew's Church on Park Avenue, I would prefer to think in terms of the glory of the possible.

If the Penn Station proposal would fiddle with one landmark to evoke another, the Sony Corporation's plan for the A.T.&T. building on Madison Avenue fiddles with a landmark to bring it closer to its ideal self. At least that's the goal of this scheme, which would dramatically change the way the public perceives this tower, which fills the block front between 55th and 56th Street.

A quick bit of history. The Pediment-topped A.T.&T. Building—celebrated or notorious, depending on your point of view, as the "Chippendale skyscraper"—was designed by Philip Johnson and John Burgee in 1978. Surely New York's most widely known example of post-modern architecture, it has been far more effective as a piece of architectural proselytizing than as headquarters for the American Telephone and Telegraph Company, which was broken up by Government decree before the building was finished in 1984.

Company executives made no secret of the fact that they found the structure's haughty classicism at odds with the new, high-tech image they sought for the post-breakup A.T.&T. But they held on to the building until last year, when they leased it to Sony USA, a corporation not without a high-tech image of its own—but with an even more determined eagerness to house itself in a structure with a high architectural profile.

For all its significance as the first important post-modern corporate skyscraper, the A.T.&T. Building has always been more successful as a symbol than as an actual building. The problem is less the building's bizarre top, which is dowdy at worst, than its heavy-handed bottom, which aspires to monumental civic grandeur but doesn't really work. When the design was announced, the public space around the base—set within open, 60-foot-high, vaulted arcades with columns of pink granite—seemed just the thing for a city crying out for a nobler public realm. But once built, these spaces turned out to be noisy, windy and dark. Their elegance was too self-conscious to offset the cold formality pervading the building; the grandiose architecture rolls over the space and quashes it.

No wonder usage of this public space has been sparse, and most people in this neighborhood with a few moments to spare have ended up in the glass-enclosed atrium of the I.B.M. Building next door instead. Sony, determined both to put its own mark on the building and to fix what was broken, hired the architects Charles Gwathmey and Robert Siegel to renovate the structure. They in turn enlisted Philip Johnson as a consultant, to give the project the proper pedigree. The three architects produced a scheme whereby the open arcades would be enclosed in glass and turned into elegant Madison Avenue shops. To make up for some of the loss of public space, the secondary public space in the building, the block-long glass-roofed arcade behind the tower, would be upgraded and expanded.

From a purely esthetic point of view, the design—which will require the approval of the City Planning Commission—is unquestionably an improvement. The tall openings in the Madison Avenue facade would not be changed but would be filled in with windows of a design consistent with those used elsewhere in the building. Functionally, the plan makes sense, too: a solid facade with storefronts is better on Madison Avenue than the present open facade broken up by columns. And public space belongs off the avenue, in the glass-roofed arcade, which even now is a far more successful space than the one in front.

But although the proposal would serve the public better in actuality, as a symbol it is more than a bit disquieting. If we measure by square footage, the public is forfeiting open space to private retail uses. But are we really losing overall? Somewhere there are people who like the A.T.&T. space as it is, but I doubt there are many. I would trade 18,947 feet of fair-to-middling space, which is what the building now has, for 10,220 feet of inviting and usable space any day. And if this important work of architecture ends up with an improved look in the bargain, so much the better.

AMENDMENT NO. 2942

On page 14, after the item following line 15, add the following:

SEC. . (a) Section 202 of the Federal Railroad Safety Act of 1970 (45 U.S.C. 431) is amended by adding a new subsection (s) to read as follows:

"(s)(1) The Secretary shall, within 6 months following the date of enactment of this subsection, issue such rules, regulations, orders and standards as may be necessary to require each intercity passenger, commuter, and freight train, other than a switch locomotive, to be equipped with alerting lights affixed to the locomotive on the leading end of the locomotive in the normal direction of movement. Such regulations shall specify the conditions under which such alerting lights shall be operated to alert highway users at highway-rail grade crossings.

"(2) For purposes of this subsection, 'alerting lights' means front end lights in addition to the locomotive's standard headlight that the Secretary determines will enhance the conspicuity of the locomotive, such as ditch lights, strobe lights, or other significant front end illumination.

"(3) The rules, regulations, orders or standards issued by the Secretary pursuant to this subsection shall require that new locomotives available for use as lead units that are placed in service after the expiration of 90 days from issuance of such rules, regulations, orders or standards, be equipped with alerting lights, and shall require all trains to be so equipped within not more than 24 months following such date of issuance.

"(4) The Secretary, on application from an operator of an affected railroad, may exempt from the requirement of this subsection, any scenic, excursion, or historic train operation, if the Secretary determines that the exemption is in the public interest and consistent with railroad safety, including the safety of highway users affected by such operations.

"(5) Each intercity passenger, commuter, and freight train equipped with ditch lights or strobe lights affixed and maintained in the manner provided for alerting lights under paragraph (1) of this subsection, on the date immediately prior to the effective date of such rules, regulations, orders, or standards relating to all trains under paragraph (3), shall be considered to be in compliance with the provisions of this subsection requiring the installation of alerting lights.

"(6) DEFINITIONS.—For purposes of this section:

"(A) The terms 'alerting lights' means front end lights in addition to the locomotive's standard headlight that the Secretary of Transportation determines will enhance the conspicuousness of the locomotive, such as ditch lights, strobe lights, or other significant front-end illumination.

"(B) The term 'ditch lights' means 2 headlights, in addition to the standard headlight on a locomotive; each of which is, at a minimum, 200 watts, 30 volts PAR 56.

"(C) The term 'strobe light' means an electronic tube emitting rapid, brief, and brilliant flashes of light with a minimum of 200,000 candle power.

"(D) The term 'scenic, excursion, or historic train' means any railroad whose primary purpose is to provide passengers a recreational or educational experience rather than for the purpose of transportation.

"(E) The term 'switch locomotive' means a locomotive used exclusively for switching, making up trains or storing rail cars within designated yard limits.".

DITCH LIGHTS

Mrs. KASSEBAUM. Over the past decade, the Federal Government has invested over $2 billion in improving grade crossing safety. As a result, approximately 35 percent of all public grade crossings in the United States are equipped with active warning devices. The railroad companies themselves invest $200 million annually to improve and maintain their signal systems. In addition, Operation Lifesaver is now active in all 50 States, educating and alerting motorists to the dangers involved in crossing railroad tracks.

But despite these efforts, accidents continue to occur. Last year, there were over 5,300 grade crossing accidents in the United States, resulting in 602 fatalities. While we all realize grade crossings are inherently dangerous and that some accidents are inevitable, I believe the number of accidents is unnecessarily high. Keeping in mind that every fatality is a human tragedy, it is clear that we must do more to promote safety. One of the many ways I believe we can make grade crossing safer is by increasing the visibility of railroad locomotives.

For decades, locomotives have been required to have a single headlight illuminated when in route. Over the years, changes have been made in the specifications for the headlight, but little else has been done to improve locomotive visibility. It has been my personal experience that a single headlight, mounted high on the locomotive, gives insufficient warning of an approaching train. Like many motorists, there have been times when I have failed even to notice the light. On other occasions, I have confused the train's headlight with one of the many other lights so common in our environment—such as motorcycle lights or street lights.

This spring, after three Kansas teenagers were killed at a rural grade crossing, I realized that action must be taken to improve the way train locomotives are lighted. The amendment I offer will require all locomotives to be equipped with ditch lights or some other form of front-end illumination determined to improve locomotive visibility.

For persons unfamiliar with ditch lights, they are headlights which are mounted low, on each side of the train's engine, and they illuminate the areas contiguous to the train tracks. Ditch lights can be made to flash or pulsate, and when used in conjunction with the train's headlight, they produce a unique triangular lighting effect. This lighting pattern attracts attention and helps motorists recognize an oncoming train.

The price of buying and installing ditch lights is relatively low. Cost estimates range anywhere from $500 to $2,000 per locomotive. Compared to the cost of a new locomotive—around $2 million—ditch lights are obviously a minor expense.

More importantly, ditch lights are effective. Tests conducted this spring by the Institute of Vehicular Safety showed ditch lights to be between 3 and 6 times brighter than the standard locomotive headlight, and they give motorists an additional 7 to 12 seconds to react to a 65 mile-per-hour train. Dr. Bernard Abrams, a visibility consultant on the tests, found ditch lights to offer significant advantages over the standard headlight both in terms of light projection and warning to motorists. Consequently, Dr. Abrams suggests that ditch lights be incorporated on all locomotive engines.

It is encouraging that a number of U.S. railroads have realized the need to improve locomotive visibility and have begun purchasing new locomotives that are equipped with additional front-end illumination such as ditch lights. Unfortunately, however, most companies have been slow to retrofit their older locomotives. The purpose of this amendment is to speed up the retrofitting process and ensure that all locomotives in the United States will be more visible to motorists.

The amendment has bipartisan support, and it is endorsed by the Brotherhood of Locomotive Engineers and the United Transportation Union. In addition, it is supported by the chairman of the Subcommittee on Surface Transportation and others on the Commerce Committee.

I realize that increasing locomotive visibility is not a panacea, that in and of itself this measure will not prevent all grade crossing accidents. Nevertheless, I believe it is a significant, reasonable, and cost-effective step in the right direction.

The PRESIDING OFFICER. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading and was read the third time.

Mr. GRASSLEY. Mr. President, I would like to express my support for S. 2608, the Amtrak reauthorization bill. I am proud to be a cosponsor of this legislation.

Over the years, I have been a strong supporter of Amtrak. I have expressed this support through my words and my votes.

Rail passenger service has a long and colorful history in the United States and it is important that we continue to insure that it remain a viable option of transportation. Amtrak operates about 250 intercity trains a day over 24,000 miles of rail line serving over 500 communities. Each year, Amtrak carries over 40 million passengers.

In these tight budgetary times, self-sufficiency must happen for Amtrak sooner than later. I applaud the efforts of Amtrak to move in this direction.

There is a section of this legislation with which I am particularly pleased. This concerns the 403(b) service section. The Amtrak authorization bill, authorizes $5 million for fiscal year 1993, $7 million for fiscal year 1994, and $10 million for fiscal year 1995 for new State-supported services. The State of Iowa will become eligible for this 403b service once money is provided for the State share by the Iowa State Legislature.

The committee report that accompanies the legislation lists the Omaha-Chicago/Central Iowa route as one of the States to receive 403b service during the span of the Amtrak reauthorization bill. In addition, I have received assurances from Amtrak that they will interpret the reauthorization bill to provide for the central route in Iowa, again if the Iowa State Legislature provides matching funds.

As I have just stated, the bill authorizes $5 million for fiscal year 1993, $7 million for fiscal year 1994, and $10 million for fiscal year 1995 for new State-supported services. How does this compare to previous years? According to Amtrak, the dollars authorized under this bill are more than has ever been spent on new State-supported service in the past. Over the past 3 years, Amtrak has averaged less than $1.8 million per year in State-supported service. The average over the 3 years of this bill is $7.3 million per year. This is over four times what has been spent in previous years.

Amtrak has also suggested that if the authorization bill does not specify an amount for 403(b) service, it is unlikely Amtrak would devote any money to new start-ups. These authorization levels for new State-supported service will be more than adequate to meet the need across the United States including Iowa's new central route.

As I have mentioned, the Iowa State Legislature needs to provide money for the match in order for Iowa to move forward with the central Amtrak route. Earlier this year the Iowa State Legislature refused to vote for State funding for the central Iowa Amtrak route. If in the future the Iowa State Legislature is able to come up with the State match for the project, because of this legislation, the State of Iowa will be in a position on the Federal level to move immediately to get this project rolling.

Mr. President, for the edification of my colleagues, I ask unanimous consent to have printed in the RECORD at this point a report prepared by the Iowa Department of Transportation which goes into more detail about the central Iowa Amtrak route.

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

REPORT ON AMTRAK 403(b) SERVICE THROUGH CENTRAL IOWA

I. INTRODUCTION

The purpose of this report is to review the feasibility of establishing 403(b) rail passenger service in Iowa between Chicago and Council Bluffs/Omaha. The report summarizes the results of Amtrak's route study; information gathered from the communities involved, railroad and equipment suppliers; and discusses options on how to implement service. Although Amtrak did provide estimates for Chicago to the Quad Cities service, this report only focuses on the Chicago to Omaha route. Benefits of such service would do much to spur economic development and tourism, improve energy conservation, and reduce environmental pollution.

II. BACKGROUND

In February 1991, the states of Illinois, Nebraska, and Iowa requested the national Rail Passenger Corporation (Amtrak) to conduct a study of rail passenger service under the provisions of Section 403(b) of the Rail Passenger Service Act. The proposed routes would serve central Iowa and Illinois from Chicago, Illinois, to Omaha, Nebraska, via the Chicago and North Western Railroad (CNW). Additionally, Iowa asked Amtrak to study extending service to the Quad Cities and Dubuque with an additional route or as an extension of the Chicago-Omaha route.

The 403(b) request was submitted following the release of Amtrak's report to Congress on the feasibility and cost of separating the existing Chicago to West Coast service into two routes which would serve both southern Iowa on the Burlington Northern and central Iowa on the CNW. Amtrak concluded this new northern route service was worth considering because the current operation in the south was at capacity and had operational problems. However, the study indicated that Amtrak could not afford to pay for the new service which would require $137 to $160 million for equipment and operate at an annual operating loss of over $14.2 million. Instead, Amtrak recommended the states consider applying for service under the 403(b) program on a shorter route at a lower cost which could become a more expedient alternative.

As a result of the states' request and the local support of mayors and other rail passengers interest over a number of years, Amtrak agreed to review potential service from Chicago to Omaha and also to the Quad Cities. Amtrak declined to study the Dubuque service because it was dropped due to lack of ridership. The results of Amtrak's study were presented in October 1991. Since then, the Iowa Department of Transportation and other states have been reviewing the study and gathering additional information to complete the evaluation of possible rail passenger service. Several meetings and discussions with the mayors and chamber of commerce representatives of the cities to be served in Iowa along the route have been held to discuss the report and develop plans on how to proceed. Also, the Iowa Department of Transportation has met with Illinois and Nebraska to discuss their interest and participation in the proposed 403(b) service.

Based on the review of Amtrak's report and the input obtained from equipment manufacturers and rebuilders, and owners of used equipment, the mayors, chambers of commerce, CNW, Illinois, and Nebraska, the following information and proposals are presented for review.

III. WHAT IS 403(b) SERVICE

Section 403(b) of the Rail Passenger Service Act allows Amtrak to run additional trains to supplement their basic system and involves a cost-sharing partnership between Amtrak and someone else. A state, a regional or local agency, or even a person can request additional train service if the applicant agrees to provide a share of the cost for that service. Currently, the applicant must pay 70 percent of the long-term avoidable operating losses and 100 percent of all capital expenses for equipment, stations, and platforms and station maintenance. There is no guarantee of the subsidy level that might be needed. On February 20, 1992, Amtrak proposed to the House Subcommittee on Transportation and Hazardous Materials that it would no longer be required to pay 30 percent of state passenger service operating costs. Under this scenario, state would pay 100 percent of these costs. The actual amount of the applicant's share is based on the total actual cost of operations.

Iowa's neighbors, Illinois, Wisconsin, and Missouri, already participate in the program. Illinois is one of the most active.

IV. RESULTS OF AMTRAK'S STUDY

The details of Amtrak's report are contained in Attachment One. The results are summarized as follows:

A. Chicago to Omaha

Amtrak's analysis was based on daily round-trip service operated between Chicago and Omaha over the CNW. The study looked at stops located in Illinois at Geneva, DeKalb, and Sterling and in Iowa at Clinton, Cedar Rapids, Marshalltown, Ames, and Carroll. The trip from Chicago to Omaha would take nine and a half hours while the reverse would be only nine hours.

The study called for the expenditure of an estimated $10.8 million to acquire two train sets that would be required to operate one train per day each day each way between Chicago and Omaha. Each train set consist of one 3,000 horse power locomotive, two ordinary handicap-accessible coaches, and one combination seating and food service car together capable of seating about 210 patrons. Because new equipment is not readily available, it would take one to two years to get new locomotives and one year for coaches.

Amtrak estimated this service would yield a long-term avoidable loss of $2,684,000 based on revenues of $3,977,000 and operating cost of $6,661,000. The three state's 70 percent share of the $2,684,000 first year deficit would amount to $1,878,800. Deficit costs would then decrease by $176,000 which represents nonrecurring start up costs. Year two and subsequent subsidy costs are projected to be $1,677,900 annually if westbound transit time could be reduced to nine hours or under. This would reduce the deficit by $111,000 per year. These estimates are not guaranteed.

B. Chicago to Quad Cities

The Chicago to Quad Cities analysis was based on a daily round-trip between Chicago and Rock Island, Illinois. The service would operate over the Burlington Northern between Chicago and Wyanet, Illinois, and from Wyanet to Rock Island over the Iowa Interstate Railroad (IAIS). Stops for this service were proposed in Illinois only and located at La Grange Road, Naperville, Plano, Mendota, Princeton, Geneseo, Moline, and Rock Island. Service would not cross the Mississippi River into Iowa. This trip would take about three and one-half hours each way.

This service would require the purchase of only one train set at an estimated cost of $5.4 million. This set would consist of the same equipment described in the Chicago to Omaha service.

The 70 percent subsidy for this service was estimated to cost $918,000. Service would generate a long-term loss of $1,312,000 based on $1,528,000 in revenues and costs of $2,840,000.

C. Items Not Addressed

In addition to the estimates presented above, Amtrak's study indicated additional capital outlays could be required, the costs of which were unknown and would not receive Amtrak funding. Chicago-Omaha service would require expenditures for installation of CNW locomotive cab signalling and station and platform works. Additionally, the railroad may need to install reverse signalling on some westbound trackage to provide for increased operational safety. Capital outlays for the Chicago-Quad Cities route would be needed for a $2.0 million connection between the BN and IAIS at Wyanet, layover facilities at Rock Island, and station and platform expenses.

V. ADDITIONAL INFORMATION

Since the release of Amtrak's report, the Iowa Department of Transportation has been reviewing the results and gathering additional information to determine the most cost-effective option of providing rail passenger service. The Iowa focus has been on the proposed Chicago-Omaha route. Very little review was made of the Chicago-Quad Cities route because of the proposed routing via Wyanet and the expensive connection that would have to be made. All service and track would be in Illinois. In addition, the Quad Cities could be served by diverging from the Omaha route at Clinton, or by providing connecting bus service.

The following summarizes the results of the information gathered from the communities along the route, equipment suppliers, and the railroad. The details are presented in Attachment Two.

A. Equipment

Both new and used equipment costs were obtained from vendors, manufacturers, railroads, and one other state currently providing 403(b) service to develop several alternatives for providing locomotives and passenger cars. Remanufactured equipment could be obtained sooner (six to nine months) at considerable savings with the same life. However, this used equipment must meet Amtrak's specifications. In addition, outright purchase and rental arrangements from Amtrak were considered. The advantages of a purchase or lease would be the elimination of the large up-front cost and the burden of disposal if service was discontinued.

Type of purchase—Estimated cost.
New purchase—$10.8 million.
Remanufactured—$5.5 to $7.0 million.
Lease—$1.0 to 2.0 million per year.

B. Station Costs

Station and platform requirements were forwarded to the committees identified as stops to develop station and platform costs. The costs will vary from city to city. Most cities plan to renovate existing stations and platforms while some will build new facilities. All have indicated willingness and financial commitment to provide a station and platform at local expense and to maintain them.

Community:	*Estimated cost*
	Estimated cost
Clinton	$150,000
Cedar Rapids	183,000
Marshalltown	50,000
Ames	78,515
Carroll	67,500
Iowa total[1]	529,015

[1] Estimates provided by the cities.

C. Track Signals

As an operational safety consideration, the CNW would want to install centralized traffic control track signals on the 316 miles between Nelson, Illinois, and Denison, Iowa, including 16 track crossovers to control westbound trains if Amtrak would want to operate at high speeds. Installation of signals would cost approximately $25-30 million. The railroad would need these facilities to avoid interference with its 40 to 50 freight trains that use the line daily at 40 to 60 miles per hour and the proposed passenger train. However, Amtrak does not believe this would be cost efficient or needed given the nature or the level of service anticipated and the proposed schedules. Therefore, passenger service would face the likelihood of some freight train interference which has been already taken into consideration and is reflected in the nine hours and fifty minutes westbound and nine hours eastbound schedules.

D. Locomotive Cab Signals

A few Amtrak locomotives, designated as substitutes in case of emergency or for scheduled maintenance of regularly assigned state trains, would have to be equipped with special signals inside the cabs in order to be used in lieu of locomotives regularly assigned to the state train. CNW estimates that it would cost $35,000 for each locomotive.

E. Operating Costs

Amtrak has estimated the first year's operating loss would be $2,684,000 for the Chicago-Omaha route based on an annual ridership of approximately 90,000 passengers per year. The states' share would be $1,879,000. Nonrecurring start-up costs would decrease the total deficit by an estimated $176,000. Another $111,000 would be saved if transit time is reduced. If these savings materialize, the subsidy in year two and subsequent years would be $1,677,900 assuming projections are accurate. Deficits would be less if revenues improve and service may become self supporting depending on ridership. The states would be required to pay 70 percent of the actual long-term avoidable loss (operating costs) incurred by Amtrak each year. The actual cost to operate could vary from the estimates.

IV. OTHER ISSUES

In addition to the information developed above, there are other issues to evaluate for the proposed Chicago to Omaha service. These issues include who shares in the costs, alternate service options, marketing needs, and future expansion.

A. Who Pays

Amtrak requires others to pay for 100 percent of the equipment and 70 percent of operating losses could be split between Illinois, Nebraska, and Iowa. It will be necessary for the participating states or others to have an agreement between themselves before they can be a party to an agreement with Amtrak.

There has been no discussion as yet between the states as to how equipment and subsidy costs could be apportioned. However, several alternatives do exist that could be used to apportion the costs among each participant. Costs could be allocated based on mileage, passengers, passenger miles, or some other formula.

An agreement between Amtrak and each state would need to be developed prior to providing service. In addition, local subsidy payment might be a way to get the train into operation. Another option would be for the local communities being served to jointly share with the states the subsidy costs.

B. Alternative Service Operations

While Amtrak studied the entire route from Chicago to Omaha, other possible service options exist which includes terminating trains at Ames, with an extension to Des Moines, Cedar Rapids, or Clinton. Terminating service at one of these locations would still provide service to the major population centers that would generate ridership. A portion of the revenue would probably be maintained while lowering the operating cost and capital expenditures. However, these options would not have a connection at both ends to the transcontinental service. Ridership would be lost as a result.

The alternative options have not been analyzed in detail to estimate the amount of ridership, revenues, and costs. These options could be used to develop the initial phase to get service started. Service could be extended in the future if warranted.

These options are available to Illinois and Iowa if service to Omaha is not necessary. Should Illinois decide not to participate, Iowa could fund the entire amount or look at providing service from an alternative location on Amtrak's current service.

C. Marketing Needs

Marketing efforts above those proposed by Amtrak may be an important key to the success. Illinois has achived great success on their established routes due to increased marketing. Fare box contribution has gone from 30 percent to nearly 80 percent.

While the states may provide some marketing assistance, local community promotion and participation will be necessary. Communities have been urged to investigate and develop similar programs, like efforts in Marshalltown and Spencer to attract local air service. The more riders the train carries, the less it cost them citizens and the states in the form of an operating subsidy.

D. Future Expansions

Amtrak's study included connecting bus service between Ames and Des Moines at an estimated cost of $102,000 per year. The alternative exists to connect other population centers such as the Quad Cities, Dubuque, Iowa City, and Waterloo/Cedar Falls to the train via bus connections. The cost to develop other bus service to the train is unknown but could be expected to be similar to the Des Moines bus service. Additionally, no ridership estimates were made regarding Des Moines' participation.

Bus service could be a viable alternative to connect the Quad Cities with rail service at Clinton rather than the direct rail service as proposed by Amtrak. Should substantial ridership materialize, rail service from Clinton to the Quad Cities via the DRI line could be considered.

VII. PROPOSALS

Based on the information gathered to date, several options exist to develop rail passenger service through central Iowa on the CNW. The following table summarizes the yearly costs for equipment and subsidy that would be necessary to implement the service. Assuming Illinois and Nebraska participate, Iowa's share of the equipment and subsidy cost could be in the range of 60 to 80 percent.

ESTIMATED COST FOR CHICAGO TO OMAHA

	Equipment	Subsidy	Total	Iowa cost @ 75 percent share
Year 1:				
Purchase:				
New	$10.8	$1.9	$12.7	$9.5
Rebuilt	7.0	1.9	8.9	6.7
Lease[1]:				
New	2.2	1.9	4.1	3.1
Rebuilt	1.4	1.9	3.3	2.5
Year 2, 3, Etc.:				
Purchase:				
New	0.0	1.7	1.7	1.3
Rebuilt	0.0	1.7	1.7	1.3
Lease[1]:				
New	1.1	1.7	1.7	2.1
Rebuilt	0.7	1.7	2.4	1.8

[1] Lease based on the assumption of 10 percent down payment, 20 year life at 10 percent.

To implement service as envisioned by the Amtrak study, Iowa would need an estimated $9.6 million for the initial year and $1.3 million per year thereafter. If rebuilt equipment is substituted for new, Iowa's share for year one could be reduced by almost $3.0 million with quicker delivery from five to twenty months.

An alternative to outright purchase would be to buy into Amtrak's pool and pay rent to them. While no discussions have taken place with Amtrak on this subject, the lease was estimated based on the purchase price with ten percent down and 20-year life at the percent interest. Based on a lease approach, it is estimated Iowa would need $2.5 to $3.0 million for year one with a continuing funding of $1.8 to $2.1 million per year thereafter depending on new versus rebuilt equipment, plus support for a continuing marketing program.

Rail passenger service may be feasible from Chicago to Omaha. However, implementation of service cannot be done quickly. The earliest Iowa could have service is possibly in two years. This is optimistic because of the equipment orders, agreements, funding, and operational efforts that would have to be undertaken. Additionally, Amtrak will need to work this service into their budget process as well as the states' budget for their share of the cost. It should be noted, the agreement with Amtrak would require subsidy payments based on actual operation which may vary from the estimates previously discussed.

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Senate now proceed to H.R. 4250, the House companion, now at the desk; that all after the enacting clause be stricken and the text of S. 2608, as amended, be inserted in lieu thereof, that the bill be advanced to third reading, passed and the motion to reconsider laid upon the table.

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

Resolved, That the bill from the House of Representatives (H.R. 4250) entitled "An Act to authorize appropriations for the National Railroad Passenger Corporation, and for other purposes", do pass with the following amendment:

Strike out all after the enacting clause and insert:

SHORT TITLE

SECTION. 1. This Act may be cited as the "Amtrak Authorization Act of 1992".

AUTHORIZATION OF APPROPRIATIONS

SEC. 2. Section 601 of the Rail Passenger Service Act (45 U.S.C. 601) is amended to read as follows:

"SEC. 601. AUTHORIZATION OF APPROPRIATIONS.

"(a) GENERAL CAPITAL EXPENDITURES.—There are authorized to be appropriated to the Secretary for the benefit of the Corporation for making capital expenditures under this Act $300,000,000 for each of the fiscal years 1993, 1994, and 1995.

"(b) OPERATING EXPENSES.—

"(1) CORE SYSTEM.—There are authorized to be appropriated to the Secretary for the benefit of the Corporation for operating expenses $331,000,000 for each of the fiscal years 1993, 1994, and 1995. Of the amounts appropriated under this paragraph, not more than 5 percent of each fiscal year shall be used for the payment of operating expenses under section 403(b) of this Act for service in operation as of September 30, 1992.

"(2) NEW STATE-SUPPORTED SERVICE.—There are authorized to be appropriated to the Secretary for the benefit of the Corporation for operating expenses under section 403(b) of this Act and for other additional services commencing after September 30, 1992—

"(A) $5,000,000 for fiscal year 1993;

"(B) $7,000,000 for fiscal year 1994; and

"(C) $10,000,000 for fiscal year 1995.

The expenditure by the Corporation of funds appropriated for operating expenses under section 403(b) of this Act for service commencing after September 30, 1992, shall not be considered to be an operating expense for purposes of calculating the revenue-to-operating expense ratio of the Corporation.

"(c) NORTHEAST CORRIDOR.—There are authorized to be appropriated to the Secretary for the benefit of the Corporation for making capital expenditures under title VII of the Railroad Revitalization and Regulatory Improvement Act of 1976 (45 U.S.C. 851 et seq.) $220,000,000 for fiscal year 1993.

"(d) MANDATORY PAYMENTS.—There are authorized to be appropriated to the Secretary $146,000,000 for fiscal year 1993, and such sums as may be necessary for each of the fiscal year 1994 and 1995, for the payment of—

"(1) tax liabilities under section 3221 of the Internal Revenue Code of 1986 due in such fiscal years in excess of amounts needed to fund benefits for individuals who retire from the Corporation and for their beneficiaries;

"(2) obligations of the Corporation under section 8(a) of the Railroad Unemployment Insurance Act (45 U.S.C. 358(a)) due in such fiscal years in excess of its obligations calculated on an experience-rated basis; and

"(3) obligations of the Corporation due under section 3321 of the Internal Revenue Code of 1986.

Funds appropriated under this subsection shall not be considered a Federal subsidy of the Corporation.

"(e) ADMINISTRATION OF APPROPRIATIONS.—Funds appropriated pursuant to this section shall be made available to the Secretary during the fiscal year for which appropriated, except that appropriations for capital acquisition and improvements may be made in an appropriations Act for a fiscal year preceding the fiscal year in which the appropriation is to be available for obligation. Funds appropriated are authorized to remain available until expended. Appropriated sums shall be paid by the Secretary to the Corporation for expenditures by it in accordance with the Secretary's budget request as approved or modified by Congress at the time of appropriation. Payments by the Secretary to the Corporation of appropriated funds shall be made no more frequently than every 90 days, unless the Corporation, for good cause, requests more frequent payment before the expiration of any 90-day period.".

BOARD OF DIRECTORS

SEC. 3. Section 303(a)(1)(E) of the Rail Passenger Service Act (45 U.S.C. 543(a)(1)(E)) is amended by adding at the end the following: "one of such members shall be specially qualified to represent the interests of rail passengers and shall be selected from a list of three qualified individuals recommended by the National Association of Railroad Passengers.".

CHIEF EXECUTIVE OFFICER

SEC. 4. Section 303 of the Rail Passenger Service Act (45 U.S.C. 543) is amended—

(1) in subsection (a)—

(A) in paragraph (1)(B), by striking "President" and inserting in lieu thereof "chief executive officer"; and

(B) in paragraph (4), by striking "President" and inserting in lieu thereof "chief executive officer"; and

(2) in subsection (d), by striking "president" each place it appears and inserting in lieu thereof "chief executive officer".

AUTHORIZATION OF PREFERRED STOCK

SEC. 5. Section 304(c) of the Rail Passenger Service Act (45 U.S.C. 544(c)) is amended by adding at the end the following new paragraph:

"(4) No amendment to the articles of incorporation of the Corporation shall be required for the issuance of the preferred stock re-

quired to be issued pursuant to this subsection.".

PROPERTY FINANCING

SEC. 6. Section 306(n) of the Rail Passenger Service Act (45 U.S.C. 546(n)) is amended to read as follows:

"(n) Neither the Corporation, nor any railroad subsidiary of the Corporation, nor any lessee or lessor of the Corporation or of any such railroad subsidiary shall be required to pay any additional taxes as a consequence of its expenditure of funds to acquire or improve real property, equipment, facilities, or rights-of-way materials or structures used directly or indirectly in the provision of rail passenger service. For purposes of this subsection, 'additional taxes' means taxes or fees (1) on the acquisition, improvement, ownership, or operation of personal property by the Corporation, any railroad subsidiary of the Corporation, or any lessee or lessor of the Corporation or of any such railroad subsidiary; and (2) on real property other than taxes or fees on the acquisition of real property, or the value of real property which is not attributable to improvements made, or the operation of such improvements, by the Corporation, any railroad subsidiary of the Corporation, or any lessor or lessee of the Corporation or of any such railroad subsidiary.".

DISCONTINUANCE, MODIFICATION, OR ALTERATION OF CERTAIN RAIL PASSENGER SERVICE

SEC. 7. Section 403(d) of the Rail Passenger Service Act (45 U.S.C. 563(d)) is amended by striking the second sentence and inserting in lieu thereof the following new sentences: "On any date on or after October 1, 1993, if such service during the previous 6-month period has a short-term avoidable loss that exceeds the average loss per passenger mile for service over short-distance routes operated by the Corporation, the Corporation may elect to consider discontinuance, modification, or adjustment of such service. If such election is made, the Corporation shall solicit public comment on alternatives to discontinuance, modification, or adjustment of such service. The public comment period shall be at least 30 days. Within 60 days after the expiration of that comment period, the Corporation may discontinue, modify, or adjust such service so that the applicable criterion is met. For purposes of this subsection, the calculation of short-term avoidable loss shall not include the cost of providing passenger equipment required to operate such service.".

HIGH-SPEED RAIL TECHNOLOGY DEMONSTRATION PROGRAM

SEC. 8. Title VIII of the Rail Passenger Service Act (45 U.S.C. 642 et seq.) is amended by adding at the end the following new section:

"SEC. 811. HIGH-SPEED RAIL TECHNOLOGY DEMONSTRATION PROGRAM.

"(a) PLAN.—The Corporation shall develop a plan for the demonstration of new technologies in rail passenger equipment. Such plan shall provide that—

"(1) any new equipment procured by the Corporation that may significantly increase train speeds over existing rail facilities shall be demonstrated, to the extent practicable, throughout the national intercity rail passenger system; and

"(2) the Corporation shall, in order to facilitate the Corporation's efforts to increase train speeds, take steps to establish cooperative arrangements with eligible applicants that intend to propose technology demonstrations for financial assistance under section 309(b)(2) of title 49, United States Code.

"(b) REPORT TO CONGRESS.—The Corporation shall, not later than September 30, 1993, transmit to the Congress a report summarizing the plan developed under subsection (a) of this section, including its goals, locations for technology demonstration, and a schedule for implementation of the plan.".

HIGH-SPEED RAIL CORRIDOR DEVELOPMENT

SEC. 9. Title VIII of the Rail Passnger Service Act (45 U.S.C. 642 et seq.), as amended by this Act, is further amended by adding to the end the following new section:

"SEC. 812. HIGH-SPEED RAIL CORRIDOR DEVELOPMENT.

"(a) ENCOURAGEMENT AND ASSISTANCE.—The corporation shall actively encourage efforts by State and regional partnerships, study groups, private sector representatives, and other entities whose objective is to advance high-speed rail service through equipment upgrades and incremental infrastructure improvements on existing railroad facilities utilized by the Corporation outside the Northeast Corridor. To the maximum extent feasible through appropriate allocation of existing resources, the Corporation shall offer planning assistance, marketing analysis and support, engineering expertise, and other assistance to Federal or State entities in pursuit of this objective.

"(b) REPORT TO CONGRESS.—The Corporation shall report to Congress, in connection with the report required under section 811 of this Act, detailing the Corporation's efforts under this section and proposing further activities in support of high-speed rail service outside the Northeast corridor.".

SAFETY IMPROVEMENTS

SEC. 10. Title VIII of the Rail Passenger Service Act (45 U.S.C. 642 et seq.), as amended by this Act, is further amended by adding at the end the following new section:

"SEC. 813. RAIL AT-GRADE CROSSINGS.

"(a) RECOMMENDATIONS.—The Corporation shall, by June 30, 1993, and periodically thereafter, make recommendations to the Secretary for the elimination of hazards of highway at-grade crossings under section 104(d) of title 23, United States Code.

"(b) ELIMINATION.—

"(1) IN GENERAL.—The Secretary, in consultation with the States along the main line of the Northeast Corridor, shall develop a plan by September 30, 1993, for the elimination of all highway at-grade crossings of such main line by December 31, 1997.

"(2) EXCEPTIONS.—The plan developed under paragraph (1) of this subsection may provide that the elimination of a highway at-grade crossing not be required if eliminating such crossing is impracticable or unnecessary and the use of the crossing will be consistent with such conditions as the Secretary considers appropriate to ensure safety.

"(3) FUNDING.—The Corporation shall pay 20 percent of the cost of the elimination of each highway at-grade crossing pursuant to the plan developed under paragraph (1) of this subsection.".

EMERGENCY TRAINING AND RESPONSE

SEC. 11. Title VIII of the Rail Passenger Service Act (45 U.S.C. 642 et seq.), as amended by this Act, is further amended by adding at the end the following new section:

"SEC. 814. EMERGENCY TRAINING AND RESPONSE.

"(a) TASK FORCE.—The Corporation, together with representatives from each of the on-board service and operating employee crafts and unions, shall form a task force to consider recommendations for improving emergency training and performance of on-board service and operating crew members.

"(b) MATTERS TO BE CONSIDERED.—The task force formed under subsection (a) of this section shall consider, at a minimum—

"(1) whether the Corporation's emergency training and drill program as presently constituted is adequate, and if not, in what ways it can be augmented or improved;

"(2) whether medical first-aid training, including cardiopulmonary resuscitation, should be required for all on-board crew members;

"(3) whether the Corporation's requirements with respect to employee responsibilities for passenger evacuation, emergency communications, crew coordination, and disaster response should be revised; and

"(4) whether Federal certification of the Corporation's emergency training program and evacuation procedures, and certification of the emergency performance of on-board crew members, are warranted.

In considering the issue described in paragraphs (1) through (4), the task force shall address relevant prior recommendations and findings by the National Transportation Safety Board.

"(c) REPORT.—Not later than June 1, 1993, the task force shall report to Congress on its findings in subsection (b) of this section, together with a summary of actions implemented to date and recommendations for future action.".

PAYMENT BY AMTRAK OF COSTS OF CERTAIN NEW SERVICES

SEC. 12. Section 403(b)(1) of the Rail Passenger Service Act (45 U.S.C. 563(b)(1)) is amended by adding at the end the following new subparagraph:

"(C) Notwithstanding subparagraph (B)(iii) of this paragraph, in the case of the first rail passenger service under this subsection that commences after October 1, 1995, and serves a State not served by the Corporation as of the date of enactment of the Amtrak Authorization Act of 1992, the Corporation shall pay 75 percent of the long-term avoidable loss associated with the operation of the service in the first year and 50 percent of such loss in the second year of operation. Any losses associated with operation of the service in the third year and thereafter shall be allocated under the Corporation's then-applicable policy for this subsection.".

COLUMBUS AND GREENVILLE RAILWAY

SEC. 13. (a) IN GENERAL.—Title V of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 821 et seq.) is amended by adding at the end the following new section:

"COLUMBUS AND GREENVILLE RAILWAY

SEC. 518. (a) LIMITATION OF UNITED STATES INTEREST.—Notwithstanding any other provision of this title, the Secretary shall limit the interest of the United States in any debt of the Columbus and Greenville Railway under sections 505 and 511 of this title to an interest which attaches to such debt in the event of (1) bankruptcy, or (2) substantial sale or liquidation of the assets of the railroad, the proceeds of which are not reinvested in the operations of the railroad. The Secretary may substitute for the evidence of such debt contingency notes payable solely from the railroad operating assets then securing such debt, including reinvestments thereof, or such other contingency notes as the Secretary deems appropriate and which conform to the terms set forth in this section.

"(b) HIGHER PRIORITY FOR NEW DEBT.—If the interest of the United States is limited under subsection (a) of this section, any new debt issued by such railroad subsequent to the issuance of the debt described in such subsection may have such higher priority in the event of bankruptcy, liquidation, or abandonment of the assets of such a railroad than the debt described in such subsection as the Secretary and the railroad may agree.".

(b) CONFORMING AMENDMENT.—The table of contents in the first section of the Railroad Revitalization and Regulatory Reform Act of 1976 is amended by inserting immediately after the item relating to section 517 the following new item:

"Sec. 518. Columbus and Greenville Railway.".

NEW YORK CITY STATION FACILITIES

SEC. 14. Title VIII of the Rail Passenger Service Act (45 U.S.C. 642 et seq.), as amended by this Act, is further amended by adding at the end the following new section:

"SEC. 815. NEW YORK CITY STATION FACILITIES.

"The Corporation shall develop a plan for new or redeveloped station facilities in New York City, New York, to accommodate the intercity rail passenger service requirements of the Corporation, along with the needs of commuter rail services currently using New York Penn Station. In developing the plan, the Corporation shall consider use of the James A. Farley Post Office building as the primary facility for handling intercity passengers, shall evaluate and attempt to reach agreements concerning sources of State, local, and private funding, and shall determine the future allocation of space and costs in the existing Penn Station and new facilities among all transportation services using the facilities. The plan shall also address potential changes in existing laws that would aid development of new or redeveloped station facilities in New York City. The Corporation shall report to the Congress on the plan no later than March 1, 1993.".

SEC. 15. (a) Section 202 of the Federal Railroad Safety Act of 1970 (45 U.S.C. 431) is amended by adding a new subsection (s) to read as follows:

"(s)(1) The Secretary shall, within 6 months following the date of enactment of this subsection, issue such rules, regulations, orders and standards as may be necessary to require each intercity passenger, commuter, and freight train, other than a switch locomotive, to be equipped with alerting lights affixed to the locomotive on the leading end of the locomotive in the normal direction of movement. Such regulations shall specify the conditions under which such alerting lights shall be operated to alert highway users at highway-rail grade crossings.

"(2) For purposes of this subsection, 'alerting lights' means front end lights in addition to the locomotive's standard headlight that the Secretary determines will enhance the conspicuity of the locomotive, such as ditch lights, strobe lights, or other significant front end illumination.

"(3) The rules, regulations, orders or standards issued by the Secretary pursuant to this subsection shall require that new locomotives available for use as lead units that are placed in service after the expiration of 90 days from issuance of such rules, regulations, orders or standards, be equipped with alerting lights, and shall require all trains to be so equipped within not more than 24 months following such date of issuance.

"(4) The Secretary, on application from an operator of an affected railroad, may exempt from the requirement of this subsection any scenic, excursion, or historic train operation, if the Secretary determines that the exemption is in the public interest and consistent with railroad safety, including the safety of highway users affected by such operations.

"(5) Each intercity passenger, commuter, and freight train equipped with ditch lights or strobe lights affixed and maintained in the manner provided for alerting lights under paragraph (1) of this subsection, on the date immediately prior to the effective date of such rules, regulations, orders, or standards relating to all trains under paragraph (3), shall be considered to be in compliance with the provisions of this subsection requiring the installation of alerting lights.

"(6) DEFINITIONS.—For purposes of this section:

"(A) The term 'alerting lights' means front end lights in addition to the locomotive's standard headlight that the Secretary of Transportation determines will enhance the conspicuousness of the locomotive, such as ditch lights, strobe lights, or other significant front-end illumination.

"(B) The term 'ditch lights' means 2 headlights, in addition to the standard headlight on a locomotive, each of which is, at a minimum, 200 watts, 30 volts PAR 56.

"(C) The term 'strobe light' means an electronic tube emitting rapid, brief, and brilliant flashes of light with a minimum of 200,000 candle power.

"(D) The term 'scenic, excursion, or historic train' means any railroad whose primary purpose is to provide passengers a recreational or educational experience rather than for the purpose of transportation.

"(E) The term 'switch locomotive' means a locomotive used exclusively for switching, making up trains or storing rail cars within designated yard limits.".

Mr. MITCHELL. Mr. President, I now ask unanimous consent that S. 2068 be returned to the calendar.

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

TO REVISE AND EXTEND THE PROGRAMS OF THE REHABILITATION ACT OF 1973, AND FOR OTHER PURPOSES

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of H.R. 5482, a bill to revise and extend the Rehabilitation Act of 1973, just received from the House; that all after the enacting clause be stricken and the text of S. 3065 as passed the Senate on August 11, 1992, be inserted in lieu thereof; that the bill be advanced to third reading and passed; that the motion to reconsider be laid upon the table; that the Senate insist upon its amendment; request a conference with the House on the disagreeing votes of the two Houses and that the Chair be authorized to appoint conferees.

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

The PRESIDING OFFICER appointed Mr. KENNEDY, Mr. HARKIN, Mr. METZENBAUM, Mr. SIMON, Mr. ADAMS, Mr. HATCH, Mr. DURENBERGER, and Mr. JEFFORDS conferees on the part of the Senate.

NATIONAL AND COMMUNITY SERVICE TECHNICAL AMENDMENT ACT OF 1992 AND TECHNICAL CORRECTIONS TO THE INTERNATIONAL BANKING ACT

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Senate proceed, en bloc, to the immediate consideration of Calendar Nos. 623 and 624, that the bills be deemed read three times, passed; and the motion to reconsider the passage of these measures be laid upon the table, en bloc; further that the consideration of these items appear individually in the RECORD; and any statements appear at the appropriate place.

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

The bill (S. 3174) to make technical corrections to the International Banking Act of 1978, was considered, ordered to be engrossed for a third reading, read the third time, and passed, as follows:

S. 3174

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. DOMESTIC RETAIL DEPOSIT-TAKING BY FOREIGN BANKS.

Section 6(c) of the International Banking Act of 1978 (12 U.S.C. 3104(c)) is amended—

(1) in paragraph (1)—

(A) by inserting "domestic retail" before "deposit accounts"; and

(B) by inserting "and requiring deposit insurance protection," after "$100,000,"; and

(2) in paragraph (2)—

(A) by striking "Deposit" and inserting "Domestic retail deposit"; and

(B) by inserting "that require deposit insurance protection" after "$100,000".

Mr. RIEGLE. Mr. President, I rise on behalf of myself and Senators GARN, GRAHAM, and MACK to offer S. 3174, a bill that makes a technical correction to section 214(a)(3) of last year's banking bill. That provision added a new subsection 6(c) to the International Banking Act of 1978, which requires foreign banks to take insured deposits in subsidiary banks incorporated in this country rather than in direct branches of the foreign bank.

Concerns have been expressed by the Federal Reserve Board, other regulators, and some State officials that section 214(a)(3) could be interpreted to prevent branches and agencies of foreign banks from accepting certain types of nonretail, uninsured deposits of less than $100,000 in their wholesale branches. It was not my intention in sponsoring section 214(a) to void regulations promulgated by the FDIC and OCC that permit them to do so. See 12 CFR 28.8 and 12 CFR 346.6. This technical amendment will clarify that matter. It will not, however, remove the discretion of the responsible agencies to revise their regulations governing nonretail deposit accounts under $100,000 if such revision is deemed appropriate.

This is the same technical correction to section 214(a)(3) of last year's banking bill that the Senate passed on March 26 in S. 2482, a bill that provided funding for the Resolution Trust Corporation [RTC]. Final passage of that bill has been delayed in the House. This same technical correction also passed the Senate on July 1 as part of S. 2733, a bill to improve the regulation of governmental sponsored enterprises.

I ask my colleagues to pass this legislation making the technical correction to section 6(c) recommended by the Board of Governors of the Federal Reserve System.

Mr. GRAHAM. Mr. President, during the closing hours of last year's session,

the Congress passed the Federal Deposit Insurance Corporation Improvement Act of 1991. Title II of that act dealt with the regulation of foreign banks. A technical mistake was made to section 214 whereby it was unclear whether foreign banks would be required to use a subsidiary rather than a branch structure to take uninsured deposits under $100,000 for wholesale business. The bill today would clarify that section 214(a)(3) would not apply to wholesale deposits but to retail deposits. This is the same language that Senator MACK and I put into the RTC refunding bill and the GSE bill, both of which passed the Senate earlier this year in the managers' technical amendments.

It is important to clear up this ambiguity so that the foreign banks, the international business community, and the Federal banking regulators will know what Congress intended and will be able to carry out their business activities.

In my home State, there are approximately 45 State-chartered foreign bank agencies. The primary business of many of these agencies is to use dollar deposits from their own citizens to finance the trade of their countries. A great deal of this trade is with the United States. This is particularly true of banks from Latin American and Caribbean Basin Initiative [CBI] countries which provide a high percentage of the trade financing for these countries. For example, the Banco International de Costa Rica provides approximately 70 percent of the trade finance available to Costa Rica. Moreover, two-thirds of Florida's $14.7 billion in exports went to Latin America and the Caribbean region in 1990. During that year, Latin American and Caribbean banks provided over $2.4 billion in trade financing through their Florida agencies. This accounted for over one-fourth of Florida's total exports of goods to the region. This trade has a direct impact on the economic development in the Latin American and Caribbean Basin region as well as on Florida's economy.

Mr. President, I ask unanimous consent that a copy of an article from the October 23, 1991, American Banker, "Trade Finance Drawing Latin Banks to Florida," which highlights many of these same points be printed in the RECORD.

Mr. President, I would like to express my thanks to Chairman RIEGLE and Senator GARN and their staffs for their help in getting S. 3174 passed. It is my hope that the House will be able to take up and pass this technical amendment before the Congress adjourns in October.

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

TRADE FINANCE DRAWING LATIN BANKS TO FLORIDA

(By James R. Kraus)

A growing number of Latin American and Caribbean banks are moving to Florida to provide the trade finance U.S. banks have spurned.

Since the start of the year, the state banking division has approved licenses for one Mexican and two Jamaican bank and received applications from eight more Latin or Caribbean banks.

Last year, 13 foreign banks, the majority of them from Latin America or the Caribbean, applied for licenses in Florida and 10 were approved.

"Foreign banks, especially Latin American banks, see this as market opportunity," said Wilbert Bascom, chief of the Bureau of International Banking at the Florida Banking Department in Tallahassee, "U.S. banks are not really interested in trade finance."

The Latin and Caribbean banks that have arrived join a long roster of better-known European banks and hardly rank as giants on the international banking scene.

But state banking officials say they play a critical role in recycling flight capital from Latin America by taking nonresident deposits and using them to finance trade with their home countries.

COMMODITY EXPORTS

More than half of some $9 billion in commodity exports from Florida to Latin America were financed by Latin American banks in Florida, officials estimate. In some instances, Latin American banks are the only ones willing to step forward and provide trade financing, they say.

Banco Internacional de Costa Rica S.A., a consortium bank based in Panama; for example, finances about 90% of the trade with Costa Rica.

Banco del Pichincha C.A., based in Quito, Ecuador, finances much of the trade with that country, while Banco Mercantil finances a large portion of trade with Venezuela.

Banks from Brazil play an equally important role, officials say.

The three banks approved so far this year are Jamaica Citizens Bank Ltd., Eagle Merchant Bank of Jamaica Ltd., and Banco Nacional de Mexico.

MIAMI BLOSSOMS

The influx of small to medium-sized foreign banks, bankers say, is turning Miami into a financial center for Latin America and the Caribbean.

"Miami is the banking capital of the Caribbean, Central and South America," says Paul Chen-Young, chairman and chief executive of the $87 million asset-Eagle Merchant Bank of Jamaica, which opened its representative office in Miami in August.

"Opening an office in Miami positions us to establish bridgeheads in New York, Toronto, and London," he added.

"Miami is becoming to Latin America that Hong Kong is to Southeast Asia and what Beirut used to be for the Middle East," says Robert Paul, a partner in the Miami-based law firm Paul, Landy, Beiley, and Harper, which assists foreign banks to obtain Florida licenses.

Experts add that trade finance may only be a stepping stone for foreign banks toward a broader range of banking operations.

The bill (S. 3175) to improve the administration provisions and make technical corrections on the National and Community Service Act of 1990, was considered, ordered to be engrossed for a third reading, read the third time, and passed; as follows:

S. 3175

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 "National and Community Service Technical Amendment Act of 1992".

SEC. 2. REFERENCES.

Except as otherwise specifically provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or a repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the National and Community Service Act of 1990 (42 U.S.C. 12501 et seq.).

SEC. 3. DEFINITIONS.

Section 101 (42 U.S.C. 12511) is amended—

(1) by striking paragraph (29) and inserting the following new paragraph:

"(29) The term 'summer program' means a full-time or part-time youth corps program authorized under this title that is limited to a period beginning after April 30 and ending before October 1."; and

(2) by striking "stipends" in paragraph (30) and inserting "living allowances".

SEC. 4. AUTHORITY OF COMMISSION.

Paragraphs (1) and (2) of section 112(b), and sections 113(10), 115(c)(2), 116(b), 164(2), 179(d), and 190(c)(8) (42 U.S.C. 12522(b) (1) and (2), 12523(10), 12525(c)(2), 12526(b), 12615(2), 12639(d), and 12651(c)(8)) are amended by striking "Secretary" each place it appears and inserting "Commission".

SEC. 5. GENERAL AUTHORITY.

Section 121 (42 U.S.C. 12541) is amended to read as follows:

"SEC. 121. GENERAL AUTHORITY.

"The Commission may make grants under section 102 to States or local applicants and may transfer funds to the Secretary of Agriculture, to the Secretary of the Interior, or to the Director of ACTION for the creation or expansion of full-time, part-time, year-round, or summer, youth corps programs".

SEC. 6. AGE.

Section 130(a)(1) (42 U.S.C. 12550(a)(1)) is amended by striking "15" and inserting "14".

SEC. 7. PEACE CORPS.

(a) ELIGIBILITY AND SELECTION PROCEDURES.—Section 161(a)(2) (42 U.S.C. 12612(a)(2)) is amended by striking "at least 3 years".

(b) EDUCATIONAL BENEFITS.—Section 163(c)(2) (42 U.S.C. 12614(c)(2)) is amended by striking "serve 3 years" and inserting "satisfactorily complete the service of the individual".

SEC. 8. ASSISTANCE FOR HEAD START.

Section 166 (42 U.S.C. 12622) is amended by inserting ", and to projects of the type described in section 211(a) of the Domestic Volunteer Service Act operating under memoranda of agreement with the ACTION Agency," after "Domestic Volunteer Service Act)".

SEC. 9. EVALUATION.

Section 179 (42 U.S.C. 12639) is amended—

(1) in subsection (a)(2) by striking "subsection (h)" and inserting "subsection (j)";

(2) in subsection (f) by inserting "or post-service benefit" after "voucher"; and

(3) in subsection (h)—

(A) in paragraph (1) by striking "subsection (g)" and inserting "this section"; and

(B) by striking paragraph (2) and inserting the following new paragraph:

"(2) CONFIDENTIALITY.—

"(A) IN GENERAL.—The Commission shall maintain the confidentiality of information acquired under this subsection regarding individual participants.

"(B) DISCLOSURE.—

"(i) CONSENT.—The content of any information described in subparagraph (A) may be disclosed with the prior written consent of the individual participant with respect to whom the information is maintained.

"(ii) AGGREGATE INFORMATION.—The Commission may disclose information about the aggregate characteristics of such participants.

SEC. 10. COMMISSION ON NATIONAL AND COMMUNITY SERVICE.

Section 190 (42 U.S.C. 12651) is amended—

(1) in subsection (b)—

(A) in paragraph (1)(B), by inserting "Director of the Office of National Drug Control Policy," after "Agriculture,"; and

(B) by redesignating paragraphs (5) through (8) as paragraphs (3) through (6), respectively;

(2) in subsection (d) by adding at the end the following new paragraph:

"(3) The Board may—

"(A) appoint the Director without regard to the provisions of title 5, United States Code, governing the appointments in the competitive service; and

"(B) fix the compensation of the Director without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates, except that the rate of compensation shall not exceed the annual rate of basic pay payable for level IV of the Executive Schedule under section 5315 of title 5, United States Code.";

(3) in subsection (e)—

(A) by striking "TECHNICAL EMPLOYEES.—The Director" and inserting "EMPLOYEES.—

"(1) IN GENERAL.—The Director";

(B) in paragraph (1) (as designated by subparagraph (A) of this paragraph)—

(i) by striking "10 technical" and inserting "eight";

(ii) by striking "Committee" and inserting "Commission"; and

(iii) by inserting before the period the following: ", except that the rate of compensation for two of the eight employees shall not exceed the annual rate of basic pay payable for level V of the Executive Schedule under section 5316 of title 5, United States Code, and the rate of compensation for the remaining six of the eight employees shall not exceed the maximum annual rate of basic pay payable for GS–15s under the General Schedule under section 5332 of title 5, United States Code"; and

(C) by adding at the end the following new paragraphs:

"(2) ADDITIONAL STAFF.—The Director may, at the discretion of the Board, appoint and compensate such staff as the Director determines to be necessary to carry out the duties of the Commission.

"(3) CONSULTANTS.—Subject to the rules prescribed by the Commission, the Director may procure the temporary and intermittent services of experts and consultants and compensate the experts and consultants in accordance with section 3109(b) of title 5, United States Code.

"(4) DETAILS OF PERSONNEL.—The head of any Federal department or agency may detail on a reimbursable basis, or on a nonreimbursable basis for not to exceed 180 calendar days during any fiscal year, as agreed upon by the Director and the head of the Federal agency, any of the personnel of that department or agency to the Commission to assist the Commission in carrying out the duties of the Commission under this Act. Any detail shall not interrupt or otherwise affect the civil service status or privileges of the Federal employee.

"(5) DONATIONS.—

"(A) SERVICES.—

"(i) VOLUNTEERS.—Notwithstanding any other provision of Federal law, the Commission may accept the voluntary services of individuals, and provide to such individuals the travel expenses described in subsection (b)(6).

"(ii) LIMITATION.—Such a volunteer shall not be considered to be a Federal employee and shall not be subject to the provisions of law relating to Federal employment including those relating to hours of work, rates of compensation, leave, unemployment compensation, and Federal employee benefits, except as follows:

"(I) TORT CLAIMS.—For the purposes of the tort claims provisions of chapter 171 of title 28, United States Code, a volunteer under this subtitle shall be considered to be a Federal employee.

"(II) CIVIL EMPLOYEE.—For the purposes of subchapter I of chapter 81 of title 5, United States Code, relating to compensation to Federal employees for work injuries, volunteers under this subtitle shall be considered to be employees, as defined in section 8101(1)(B) of title 5, United States Code, and the provisions of such subchapter shall apply.

"(B) PROPERTY.—The Commission may accept, use, and dispose of, in furtherance of the purposes of this Act, donations of any money or property, real, personal, or mixed, tangible or intangible, received by gift, devise, bequest, or otherwise.

"(C) RULES.—The Commission shall establish written rules setting forth the criteria to be used in determining whether the acceptance of contributions of money or property, real, personal, or mixed, tangible or intangible, received by gift, device, bequest, or otherwise (pursuant to subparagraph (B)) would reflect unfavorably upon the ability of the Commission or any employee of the Commission to carry out the responsibilities or official duties of the Commission in a fair and objective manner, or would compromise the integrity of the programs of the Commission or any official involved in such programs.

"(D) DISPOSITION.—Upon completion of the use by the Commission of any affected property, such completion shall be reported to the General Services Administration and such property shall be disposed in accordance with title II of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 471 et seq.).

"(6) CONTRACTS.—Subject to the Federal Property and Administrative Services Act of 1949, the Commission may enter into contracts, and cooperative and interagency agreements, with Federal and State agencies, private firms, institutions, and individuals to conduct activities necessary to carry out the duties of the Commission under this Act."; and

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

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

"(j) INFORMATION FROM FEDERAL AGENCIES.—The Commission may secure directly from an officer, department, agency, establishment, or instrumentality of the Federal Government such information and statistics as the Commission may require to carry out the duties of the Commission under this Act. On the request of the Director of the Commission, each such officer, department, agency, establishment, or instrumentality may furnish, to the extent permitted by law, such information and statistics directly to the Commission.

"(k) SOURCES OF SUPPLIES AND SERVICES.—The Commission may use General Services Administration sources of supplies and services.".

SEC. 11. AUTHORIZATION OF APPROPRIATIONS.

(a) IN GENERAL.—Section 501(a)(1) (42 U.S.C. 12681(a)(1)) is amended to read as follows:

"(1) TITLE I.—

"(A) IN GENERAL.—There are authorized to be appropriated to carry out subtitles B, C, D, E, and F of title I, $102,000,000 for fiscal year 1993.

"(B) SUBTITLE G.—There are authorized to be appropriated to carry out subtitle G of title I, $3,000,000 for fiscal year 1993.".

(b) EARMARKS.—Section 501(a)(2) (42 U.S.C. 12681(a)(2)) is amended—

(1) in the matter preceding subparagraph (A), by striking "paragraph (1)" and inserting "paragraph (1)(A)";

(2) by striking subparagraph (A);

(3) by striking "and" at the end of subparagraph (C);

(4) by striking the period at the end of subparagraph (D) and inserting a semicolon;

(5) by redesignating subparagraphs (B), (C), and (D) as subparagraphs (A), (B), and (C), respectively; and

(6) by adding at the end the following new subparagraph:

"(D) any remaining funds may be expended for any activity authorized in title I.".

LOAN ASSISTANCE TO SMALL BUSINESS

Mr. MITCHELL. Mr. President, I ask the Chair to lay before the Senate a message from the House of Representatives on H.R. 4111.

The PRESIDING OFFICER laid before the Senate the amendment of the House of Representatives to the amendment of the Senate to the bill (H.R. 4111) to amend the Small Business Act to provide additional loan assistance to small businesses, and for other purposes.

(The amendment of the House is printed in the RECORD of August 11, 1992, beginning at page 23039.)

Mr. MITCHELL. Mr. President, I move that the Senate concur in the amendment of the House to the Senate amendment.

The PRESIDING OFFICER. The motion is agreed to.

Mr. MITCHELL. Mr. President, I move to reconsider the vote.

Mr. DOLE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

NOMINATION REFERRED TO COMMITTEE

Mr. MITCHELL. Mr. President, as if in executive session, I ask unanimous

consent that Executive Calendar 775, the nomination of Col. Douglas M. Padgett be referred to the Committee on Armed Services.

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

UNITED NATIONS INTERNATIONAL DRIFTNET FISHERY CONSERVATION PROGRAM

Mr. MITCHELL. Mr. President, I ask that the Chair lay before the Senate a message from the House of Representatives on H.R. 2152.

The PRESIDING OFFICER laid before the Senate the following message from the House of Representatives:

Resolved, That the House agree to the amendment of the Senate to the bill (H.R. 2152) entitled "An Act to enhance the effectiveness of the United Nations international driftnet fishery conservation program", with the following amendments:

Strike title V of the matter proposed to be inserted by the amendment to the text of the bill, and insert:

SEC. 605. TREATMENT OF VESSELS UNDER THE COUNTERVAILING AND ANTIDUMPING DUTY LAWS.

(a) IN GENERAL.—Subtitle D of title VII of the Tariff Act of 1930 is amended by adding after section 771B the following new section:

"SEC. 771C. SPECIAL RULES IN APPLYING TITLE TO FOREIGN-MADE VESSELS.

"(a) DEFINITION.—The term 'vessel' means any vessel of a kind described in heading 8901 or 8902.00.00 of the Harmonized Tariff Schedule of the United States of not less than 100 gross tons, as measured under the International Convention on Tonnage Measurement of Ships, 1969.

"(b) VESSELS CONSIDERED AS MERCHANDISE.—Vessels are merchandise for purposes of this title.

"(c) APPLICATION OF SUBTITLES A AND B.—

"(1) IN GENERAL.—In applying subtitles A and B with respect to vessels constructed, reconstructed, or repaired in foreign countries—

"(A) a vessel shall be treated as sold for importation into the United States when a United States person enters into a contract for—

"(i) the construction or reconstruction of the vessel by, or the purchase (or leasing, if the equivalent of a purchase) of the vessel after construction or reconstruction from, the builder; or

"(ii) the repair of the vessel; and

"(B) a vessel sold for importation into the United States shall be treated as being offered for entry for consumption under the tariff laws at the time of its first arrival at a port or place in the United States after construction, reconstruction, or repair, regardless of where the vessel is registered or documented.

"(2) DEFINITION.—For purposes of paragraph (1), the term 'United States person' means—

"(A) any individual or entity described in subsection (a) of section 12102 of title 46, United States Code;

"(B) any agent or other person acting on behalf of any individual or entity referred to in subparagraph (A); or

"(C) any person directly or indirectly owned or controlled by any individual or entity referred to in subparagraph (A).".

(b) PROSPECTIVE APPLICATION TO CONTRACTS.—The amendments made by subsection (a) of this section apply to a vessel built or repaired under a contract entered into after the date of enactment of this Act.

SEC. 606. UNITED STATES CONSTRUCTION SUBSIDY PROGRAMS.

(a) GOVERNMENT-IMPELLED CARGO.—Section 901(b) of the Merchant Marine Act, 1936 (46 App. U.S.C. 1241(b)) is amended—

(1) in paragraph (1), by striking "For purposes of this section, the term 'privately owned United States-flag commercial vessels'" and all that follows through the end of the paragraph and inserting a period; and

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

"(3) In this section, 'privately owned United States-flag commercial vessels' does not include a vessel (until the vessel has been documented under chapter 121 of title 46, United States Code, for a period of 3 years) that—

"(A)(i) was built and, if rebuilt, rebuilt outside the United States; or

"(ii) for a vessel operated by an ocean common carrier (as defined in section 3 of the Shipping Act of 1984 (46 App. U.S.C. 1702)), is built under a contract entered into after October 16, 1991 and has not been issued a construction subsidy certification under section 435B of the Tariff Act of 1930; or

"(B) was registered under the laws of a foreign country.".

(b) CONSTRUCTION RESERVE FUND.—Section 511(a)(2) of the Merchant Marine Act, 1936 (46 App. U.S.C. 1161(a)) is amended to read as follows: "(2) constructed in the United States after December 31, 1939," and all that follows through "insured under title XI of this Act as amended;" and inserting "(2)(A) constructed in the United States, or (B) the construction of which has been aided by a mortgage insured under title XI of this Act, or (C) if constructed in a foreign shipyard under a contract entered into after October 16, 1991, has been issued a construction subsidy certification under section 435B of the Tariff Act of 1930; and".

(c) OPERATING-DIFFERENTIAL SUBSIDY.—Section 601(a)(1) of the Merchant Marine Act, 1936 (46 App. U.S.C. 1171(a)(1)) is amended by striking "and that such vessel or vessels were built in the United States," and all that follows through "prior to such date;" and inserting "and that the vessel was built in the United States or, if constructed in a foreign shipyard under a contract entered into after October 16, 1991, has been issued a construction subsidy certification under section 435B of the Tariff Act of 1930;".

(d) CONSTRUCTION LOAN GUARANTEES.—Section 1103(b) of the Merchant Marine Act, 1936 (46 App. U.S.C. 1273(b)) is amended—

(1) after "(b)" by inserting "(1)"; and

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

"(2) The Secretary may not guarantee an obligation under this title unless the vessel—

"(A) was built in the United States; or

"(B) if constructed in a foreign shipyard under a contract entered into after October 16, 1991, has been issued a construction subsidy certification under section 435B of the Tariff Act of 1930.".

(e) PRIORITY LOAN GUARANTEES FOR VESSELS IN COASTWISE TRADE.—Section 1103 of the Merchant Marine Act, 1936 (46 App. U.S.C. 1273) is amended by adding at the end the following new subsection:

"(g) When making guarantees, or commitments to guarantee, under this title, the Secretary of Transportation shall give priority for guarantees or commitments for vessels that will be engaged in the coastwise trade over guarantees or commitments for vessels that will be engaged in the foreign commerce.".

(f) TRADE-IN OF OBSOLETE VESSELS.—Section 510(a)(2)(B) of the Merchant Marine Act, 1936 (46 App. U.S.C. 1160(a)(2)(B)) is amended to read as follows: "(B) is built in the United States or, if constructed in a foreign shipyard under a contract entered into after October 16, 1991, has been issued a construction subsidy certification under section 435B of the Tariff Act of 1930, and documented under chapter 121 of title 46, United States Code.".

TITLE VII—TECHNICAL REVISIONS TO MAPS RELATING TO COASTAL BARRIER RESOURCES SYSTEM

SEC. 701. TECHNICAL REVISIONS TO MAPS.

(a) IN GENERAL.—The Secretary of the Interior shall, before the end of the 30-day period beginning on the date of the enactment of this Act, make such technical revisions to the maps described in subsection (b) as are necessary to ensure that—

(1) on the maps referred to in subsection (b)(2)(A) and (B), depictions of areas as "otherwise protected areas" do not include any area that is not an otherwise protected area within the meaning of that term under section 12 of the Coastal Barrier Improvement Act of 1990 (16 U.S.C. 3503 note); and

(2) on the map referred to in subsection (b)(2)(C), depictions of areas as "otherwise protected areas" identified as "VA-60P" do not include—

(A) any area that is located south of the north bank of the Salt Ponds Inlet in Hampton, Virginia; and

(B) the area that is located north of the line described in subsection (c), other than any part of that area which is an otherwise protected area within the meaning of that term under section 12 of the Coastal Barrier Improvement Act of 1990 (16 U.S.C. 3503 note).

(b) MAPS DESCRIBED.—The maps referred to in subsection (a) are—

(1) included in a set of maps entitled "Coastal Barrier Resources System", dated October 24, 1990; and

(2) entitled, respectively—

(A) "Pine Island Bay Unit, NC-01P",

(B) "Roosevelt Natural Area Unit, NC-05P", and

(C) "Plum Island Unit VA-59P Long Creek Unit VA-60P".

(c) LINE DESCRIBED.—The line referred to in subsection (a)(2)(B) is a line described as follows:

Beginning at an iron pipe in the low water line of Chesapeake Bay; said iron pipe being located 265.00 feet in a southerly direction from the south eastern corner of Fox Hill Shores Subdivision (as shown in Plat Book 9, page 161 as recorded in the Circuit Court for the City of Hampton, Virginia) and from this TRUE POINT OF BEGINNING running thence North 66 degrees 47 minutes 46 seconds West 995.79 feet to a found iron pipe; thence South 15 degrees 47 minutes 20 seconds East 270.65 feet to a found iron pipe; thence South 73 degrees 59 minutes 57 seconds West 836.68 feet to a point marking the low water line of Long Creek; being known as the southerly property line of Riley's Way.

TITLE VIII—CLEAN VESSEL ACT OF 1992

SEC. 801. SHORT TITLE.

This title may be cited as the "Clean Vessel Act of 1992".

SEC. 802. FINDINGS; PURPOSE.

(a) FINDINGS.—The Congress finds the following:

(1) The discharge of untreated sewage by vessels is prohibited under Federal law in all areas within the navigable waters of the United States.

(2) The discharge of treated sewage by vessels is prohibited under either Federal or State law in many of the United States bodies of water where recreational boaters operate.

(3) There is currently an inadequate number of pumpout stations for marine sanitation devices where recreational vessels normally operate.

(4) Sewage discharged by recreational vessels because of an inadequate number of pumpout stations is a substantial contributor to the degradation of water quality in the United States.

(b) PURPOSE.—The purpose of this Act is to provide funds to coastal States for the construc-

tion, renovation, operation, and maintenance of pumpout stations and waste reception facilities.

SEC. 803. DETERMINATION AND PLAN REGARDING STATE MARINE SANITATION DEVICE PUMPOUT STATION NEEDS.

(a) SURVEY.—Within 3 months after the notification under section 805(b), each coastal State shall conduct a survey to determine—

(1) the number and location of all operational pumpout stations and waste reception facilities in the State, at public and private marinas, mooring areas, docks, and other boating access facilities; and

(2) the number of recreational vessels in the coastal waters of the State with type III marine sanitation devices or portable toilets, and the areas of those coastal waters where those vessels congregate.

(b) PLAN.—Within 6 months after the notification under section 805(b), and based on the survey conducted under subsection (a), each coastal State shall—

(1) develop and submit to the Administrator of the Environmental Protection Agency a plan for any construction or renovation of pumpout stations and waste reception facilities in the State that is necessary to ensure that, based on the guidance issued under section 805(a), there are pumpout stations and waste reception facilities in the State that are adequate and reasonably available to meet recreational vessel needs in the State; and

(2) submit to the Administrator with that plan a list of all such stations and facilities in the State which are operational on the date of submittal.

(c) PLAN APPROVAL.—

(1) IN GENERAL.—Not later than 60 days after a plan is submitted by a State under subsection (b), the Administrator of the Environmental Protection Agency shall approve or disapprove the plan, based on—

(A) the adequacy of the survey conducted by the State under subsection (a); and

(B) the ability of the plan, based on the guidance issued under section 805(a), to meet the construction and renovation needs identified in the survey.

(2) NOTIFICATION OF STATE; MODIFICATION.—The Administrator shall promptly notify the affected Governor of the approval or disapproval of a plan. If a plan is disapproved, the Administrator shall recommend necessary modifications and return the plan to the affected Governor.

(3) RESUBMITTAL.—Not later than 60 days after receiving a plan returned by the Administrator, the Governor shall make the appropriate changes and resubmit the plan.

(d) INDICATION OF STATIONS AND FACILITIES ON NOAA CHARTS.—

(1) IN GENERAL.—The Under Secretary of Commerce for Oceans and Atmosphere shall indicate, on charts published by the National Oceanic and Atmospheric Administration for the use of operators of recreational vessels, the locations of pumpout stations and waste reception facilities.

(2) NOTIFICATION OF NOAA.—

(A) LISTS OF STATIONS AND FACILITIES.—The Administrator of the Environmental Protection Agency shall transmit to the Under Secretary of Commerce for Oceans and Atmosphere each list of operational stations and facilities submitted by a State under subsection (b)(2), by not later than 30 days after the date of receipt of that list.

(B) COMPLETION OF PROJECT.—The Director of the United States Fish and Wildlife Service shall notify the Under Secretary of the location of each station or facility at which a construction or renovation project is completed by a State with amounts made available under the Act of August 9, 1950 (16 U.S.C. 777a et seq.), as amended by this Act, by not later than 30 days after the date of the completion of the project.

SEC. 804. FUNDING.

(a) TRANSFER.—Section 4 of the Act of August 9, 1950 (16 U.S.C. 777c), is amended—

(1) by striking "So much, not to exceed 6 per centum," and all that follows through "shall apportion the remainder of the appropriation for each fiscal year among the several States", and inserting the following:

"(a) The Secretary of the Interior shall distribute 18 per centum of each annual appropriation made in accordance with the provisions of section 3 as provided in the Coastal Wetlands Planning, Protection, and Restoration Act. Notwithstanding the provisions of section 3, such sums shall remain available to carry out such Act through fiscal year 1999.

"(b) Of the balance of each such annual appropriation remaining after making the distribution under subsection (a), an amount equal to $10,000,000 for fiscal year 1993, $15,000,000 for each of fiscal years 1994 and 1995, and $20,000,000 for each of fiscal years 1996 and 1997 shall be used as follows:

"(1) ½ shall be transferred to the Secretary of Transportation and be expended for State recreational boating safety programs under section 13106(a)(1) of title 46, United States Code.

"(2) ½ shall be used by the Secretary of the Interior to make grants under section 804(c) of the Clean Vessel Act of 1992.

"(c) Of the balance of each such annual appropriation remaining after the distribution and use under subsections (a) and (b), respectively, so much, not to exceed 6 per centum of such balance, as the Secretary of the Interior may estimate to be necessary for his or her expenses in the conduct of necessary investigations, administration, and the execution of this Act and for aiding in the formulation, adoption, or administration of any compact between 2 or more States for the conservation and management of migratory fishes in marine or freshwaters, shall be deducted for that purpose, and such sum is authorized to be made available therefor until the expiration of the next succeeding fiscal year.

"(d) The Secretary of the Interior, after the distribution, transfer, use, and deduction under subsections (a), (b), and (c), respectively, shall apportion the remainder of each such annual appropriation among the several States"; and

(2) by inserting "(e)" before "So much of any sum" and redesignating the last 2 sentences of that section as subsection (e).

(b) ACCESS INCREASE.—Section 8(b)(1) of the Act of August 9, 1950 (16 U.S.C. 777g(b)(1)), is amended—

(1) by striking "10 per centum" and inserting "12½ per centum"; and

(2) by adding at the end the following: "Of amounts allocated by a coastal State (as that term is defined in the Clean Vessel Act of 1992) under this subsection in each of fiscal years 1993 through 1997, 2½ per centum may be used to develop and implement the plan required under section 803(b) of that Act.".

(c) GRANTS.—The Secretary of the Interior shall, with amounts made available under section 4(b) of the Act August 9, 1950, make grants to coastal States to pay not more than 75 percent of the cost to a coastal State of—

(1) conducting a survey under section 803(a);

(2) developing and submitting a plan and accompanying list under section 803(b);

(3) constructing and renovating pumpout stations and waste reception facilities in accordance with that survey and plan; and

(4) conducting a program to educate recreational boaters about the problem of human body waste discharges from vessels and inform them of the location of pumpout stations and waste recreation facilities.

SEC. 805. GUIDANCE AND NOTIFICATION.

(a) ISSUANCE OF GUIDANCE.—Not later than 3 months after the date of the enactment of this Act, the Administrator of the Environmental Protection Agency shall, after notice and opportunity for public comment, issue—

(1) guidance regarding the types of pumpout stations and waste reception facilities that may be appropriate for construction, renovation, operation, or maintenance with amounts available under the Act of August 9, 1950 (16 U.S.C. 777a et seq.), as amended by this Act, and appropriate location of the stations and facilities within a marina or boatyard;

(2) guidance defining what constitutes adequate and reasonably available pumpout stations and waste reception facilities in boating areas;

(3) guidance on appropriate methods for disposal of vessel sewage from pumpout stations and waste reception facilities;

(4) guidance on appropriate connector fittings to facilitate the sanitary and expeditious discharge of sewage from vessels;

(5) guidance on the coastal waters most likely to be affected by the discharge of sewage from vessels; and

(6) other information that the Administrator of the Environmental Protection Agency considers necessary to promote the establishment of pumpout facilities to reduce sewage discharges from vessels and to protect coastal waters.

(b) NOTIFICATION.—Not later than 1 month after the guidance issued under subsection (a) is finalized, the Director of the United States Fish and Wildlife Service shall provide notification in writing to the fish and game, water pollution control, and coastal zone management authorities of each coastal State, of—

(1) the availability of amounts under the Act of August 9, 1950 (16 U.S.C. et seq.); and

(2) the guidance developed under subsection (a).

SEC. 806. DEFINITIONS.

For the purposes of this Act:

(1) The term "coastal State"—

(A) means a State of the United States in, or bordering on, the Atlantic, Pacific, or Arctic Ocean; the Gulf of Mexico; Long Island Sound; or one or more of the Great Lakes;

(B) includes Puerto Rico, the Virgin Islands, Guam, the Commonwealth of the Northern Mariana Islands, and American Samoa; and

(C) does not include a State for which the ratio of the number of recreational vessels in the State numbered under chapter 123 of title 46, United States Code, to number of miles of shoreline (as that term is defined in section 926.2(d) of title 15, Code of Federal Regulations, as in effect on January 1, 1991), is less than one.

(3) The term "coastal waters" means—

(A) in the Great Lakes area, the waters within the territorial jurisdiction of the United States consisting of the Great Lakes, their connecting waters, harbors, roadsteads, and estuary-type areas such as bays, shallows, and marshes; and

(B) in other areas, those waters, adjacent to the shorelines, which contain a measurable percentage of sea water, including sounds, bays, lagoons, bayous, ponds, and estuaries.

(4) The term "marine sanitation device" includes any equipment for installation on board a vessel which is designed to receive, retain, treat, or discharge human body wastes, and any process to treat such wastes.

(5) The term "pumpout station" means a facility that pumps human body wastes out of marine sanitation devices installed on board vessels.

(6) The term "recreational vessel" means a vessel—

(A) manufactured for operation, or operated, primarily for pleasure; or

(B) leased, rented, or chartered to another for the latter's pleasure.

(7) The term "waste reception facility" means a facility to receive wastes from portable toilets carried on vessels.

TITLE IX—NATIONAL UNDERSEA RESEARCH PROGRAM

Subtitle A—Establishment of National Undersea Research Program

SEC. 901. SHORT TITLE.

This subtitle may be cited as the "National Undersea Research Program Act of 1992".

SEC. 902. FINDINGS AND PURPOSE.

(a) FINDINGS.—The Congress finds the following:

(1) The world's oceans occupy 317,000,000 cubic miles, and constitute 71 percent of the surface of the earth.

(2) The Great Lakes comprise 20 percent of the world's freshwater and are a valuable, international, commercial, and recreational resource.

(3) The oceans and Great Lakes are inextricably linked to many important global processes, such as global temperature, weather patterns, and nutrient cycling.

(4) The oceans and Great Lakes hold many undiscovered or unexploited mineral and biological resources.

(5) A majority of invertebrate phyla and over half the vertebrate species inhabit the oceans.

(6) The genetic diversity of marine organisms makes the oceans a potentially important source of undiscovered medical agents.

(7) Understanding of the physical, chemical, geological, and biological processes which govern dynamics in the oceans and Great Lakes, particularly the deep ocean, is limited.

(8) Oceanic and limnological researchers require increasingly more advanced technologies and methodologies to accomplish complex research goals.

(9) Advanced underwater technology, including diving, underwater laboratories, research submersibles, and remotely operated vehicles, must be an integral part of the Nation's efforts to study, understand, utilize, conserve, and wisely manage the aquatic environment.

(b) PURPOSE.—The purpose of this subtitle is to establish a program of research to better understand ocean and large lakes ecosystems and their role in global systems.

SEC. 903. DEFINITIONS.

For the purposes of this subtitle, the term—

(1) "Administration" means the National Oceanic and Atmospheric Administration;

(2) "Center" means any National Undersea Research Center in existence prior to the date of enactment of this Act or established pursuant to section 906;

(3) "Center Director" means the Director of any National Undersea Research Center;

(4) "Committee" means the National Undersea Research Steering Committee established pursuant to section 905;

(5) "Office" means the Office of Undersea Research established under section 904(c)(1);

(6) "priority research area" means any of the priority research areas under section 904(f), as those areas may be revised by the Under Secretary under section 904(f)(2).

(7) "Program" means the National Undersea Research Program established under section 904;

(8) "Program Director" means the Director of the National Undersea Research Program appointed pursuant to section 904(c)(2);

(9) "undersea region" means each of—

(A) the North Atlantic region, comprised of the coastal and oceanic waters north of Montauk, New York, and off Maine, New Hampshire, Massachusetts, Rhode Island, and Connecticut;

(B) the Mid-Atlantic region, comprised of the coastal and oceanic waters south of Montauk, New York, and off New York, New Jersey, Delaware, Maryland, and Virginia;

(C) the South Atlantic region, comprised of the coastal and oceanic waters off North Carolina, South Carolina, Georgia, and the Atlantic coast of Florida (including the Florida Keys);

(D) the Gulf of Mexico region, comprised of the coastal and oceanic waters of the Gulf of Mexico off Florida, Alabama, Mississippi, Louisiana, and Texas;

(E) the Great Lakes region, comprised of the waters of the Great Lakes;

(F) the Southern Pacific region, comprised of the coastal and oceanic waters off California;

(G) the Northern Pacific region, comprised of the coastal and oceanic waters off Oregon and Washington;

(H) the Western Pacific region, comprised of the coastal and oceanic waters off Hawaii, Guam, American Samoa, and the Northern Mariana Islands;

(I) the Alaskan region, comprised of the coastal and oceanic waters off Alaska;

(J) the Caribbean region, comprised of the coastal and oceanic waters off Puerto Rico and the United States Virgin Islands; and

(K) any other undersea region resulting from an establishment, modification, or merger under section 906(f)(2);

(10) "undersea research" means scientific research carried out in the oceans or large lakes of the world, using underwater vehicles or techniques; and

(11) "Under Secretary" means the Under Secretary of Commerce for Oceans and Atmosphere.

SEC. 904. ESTABLISHMENT AND ADMINISTRATION OF NATIONAL UNDERSEA RESEARCH PROGRAM.

(a) PROGRAM ESTABLISHMENT AND MAINTENANCE.—The Under Secretary shall establish and maintain within the Administration a program to be known as the "National Undersea Research Program".

(b) PROGRAM PURPOSE.—The Program shall, for the purpose of enhancing scientific understanding of processes in the oceans and large lakes of the world—

(1) develop, maintain, and conduct scientific and engineering undersea research programs; and

(2) investigate, develop, and apply technology for undersea research.

(c) OFFICE OF UNDERSEA RESEARCH.—

(1) ESTABLISHMENT.—There is established in the Administration the Office of Undersea Research, which shall conduct the Program.

(2) PROGRAM DIRECTOR.—The head of the Office shall be the Director of the National Undersea Research Program, who shall be appointed by the Under Secretary from among individuals with extensive knowledge and expertise in undersea research, and having appropriate administrative experience.

(d) DUTIES OF PROGRAM DIRECTOR.—The Program Director shall administer the Program subject to the supervision of the Under Secretary. In addition to any other duty prescribed by law or assigned by the Under Secretary, the Program Director shall—

(1) establish and maintain a list for each priority research area of scientists who are actively conducting research in that area, for the purpose of—

(A) providing peer reviews of individual research proposals under the Program; and

(B) participating in site visits pursuant to section 907(c)(2); and

(2) develop guidelines for the submission and review of proposals from Centers and individual researchers for research under the Program.

(e) SCIENCE ADVISOR.—

(1) APPOINTMENT.—The Under Secretary shall, pursuant to the Intergovernmental Personnel Act of 1970 (42 U.S.C. 4701 et seq.) and by not later than 6 months after the date of the enactment of this Act, appoint to serve as a science advisor to the Director on the scientific needs of the Program, an individual who—

(A) is a scientist active in one or more priority research areas;

(B) is not employed by the Federal Government; and

(C) during the period of such service, is on leave of absence from an institution of higher education or oceanographic research.

(2) TERMS.—

(A) IN GENERAL.—The term of an individual as a science advisor under this subsection shall be one year.

(B) LIMITATION.—An individual may serve not more than 2 terms as a science advisor under this subsection.

(f) PRIORITY RESEARCH AREAS.—

(1) IN GENERAL.—The Under Secretary may use amounts appropriated for the Program to fund research, including long-term studies, within the following priority research areas:

(A) Oceanic, coastal, estuarine, and limnological processes.

(B) Pathways and fates of materials in the oceans and large lakes.

(C) Diversity, distribution, productivity, and recruitment of organisms with respect to habitat characteristics in the oceans and large lakes.

(D) Global change processes.

(E) Ocean lithosphere processes and mineral resources.

(F) Undersea research platform and instrument technology.

(G) Diving safety, physiology, and technology.

(2) REVISION OF PRIORITY AREAS.—Upon the recommendation of the Committee, the Under Secretary may, after public comment, revise the priority research areas under paragraph (1).

SEC. 905. STEERING COMMITTEE.

(a) ESTABLISHMENT OF COMMITTEE.—The Under Secretary shall establish an independent steering committee to be known as the "National Undersea Research Steering Committee".

(b) COMPOSITION.—

(1) IN GENERAL.—The Committee shall consist of 9 members appointed by the Under Secretary from individuals who are professional scientists or engineers and active in at least one priority research area, of whom 2 members shall be appointed from individuals nominated by Center Directors. The Under Secretary shall complete appointments under this paragraph by not later than 6 months after the date of the enactment of this Act.

(2) BALANCE.—In appointing members of the Committee, the Under Secretary shall seek to ensure balanced representation of priority research areas, disciplines related to those research areas, and geographic regions of the United States.

(3) PROHIBITION ON APPOINTMENT OF FEDERAL EMPLOYEES.—No member of the Committee may be an employee of the Federal Government, except the Chief Scientist of the Administration.

(4) EX OFFICIO MEMBER.—The Chief Scientist of the Administration shall be a nonvoting ex officio member of the Committee.

(c) DUTIES.—The Committee shall advise the Under Secretary and the Program Director concerning—

(1) the quality of research performed with grants awarded under section 908, including the applicability of such research to the priority research areas;

(2) the designation, establishment, merger, and operation of Centers;

(3) the modification and merger of undersea regions;

(4) the need to revise the priority research areas;

(5) the process of responding to research proposal reviews, including making determinations and recommendations under section 907(a)(3)(B).

(6) any other matters the Under Secretary refers to the Committee for review and advice or the Committee considers appropriate.

(d) TERM OF MEMBERSHIP.—

(1) IN GENERAL.—Subject to paragraph (2), the term of membership on the Committee shall be 3 years.

(2) INITIAL APPOINTMENTS.—Of the members first appointed to the Committee—

(A) 3 members shall serve a term of one year;

(B) 3 members shall serve a term of 2 years; and

(C) 3 members shall serve a term of 3 years;

as specified by the Under Secretary at the time of appointment.

(3) TERM LIMITATION.—No Committee member may serve consecutive terms as a member of the Committee.

(e) COMPENSATION.—Members of the Committee, while performing official duties as members of the Committee, are entitled to receive compensation for travel and transportation expenses under section 5703 of title 5, United States Code.

(f) CHAIRPERSON.—The members of the Committee shall select annually from among themselves an individual who shall serve as Chairperson of the Committee. No member of the Committee may serve more than 2 annual terms as a chairperson.

(g) CONDUCT OF BUSINESS.—The Committee shall conduct its business according to the majority vote of those members present at a meeting of the Committee.

(h) EXEMPTION.—The Federal Advisory Committee Act (5 U.S.C. App.) shall not apply to the Committee.

SEC. 906. ESTABLISHMENT OF NATIONAL UNDERSEA RESEARCH CENTERS.

(a) ASSIGNMENT AND ESTABLISHMENT OF CENTERS.—

(1) ASSIGNMENT OF REGIONS TO EXISTING CENTERS.—The Under Secretary shall, in consultation with the Committee, assign one or more undersea regions to each Center in existence on the date of the enactment of this Act, by not later than 6 months after that date.

(2) ESTABLISHMENT OF NEW CENTERS.—The Under Secretary may establish a new Center to implement the Program for any undersea region at an institution of higher education or oceanographic research located in a State bordering the region—

(A) if there are adequate funds available for the establishment of the Center;

(B) after reviewing each proposal submitted under subsection (b) with respect to that region; and

(C) if the Committee concurs in the selection of that institution.

(3) LIMITATION.—The Under Secretary may not establish a new Center for an undersea region if—

(A) the expenditure of amounts for that Center would result in any reduction of amounts available for expenditure for any existing Center; and

(B) there is a Center in existence for that region.

(b) SOLICITATION OF PROPOSALS FOR NEW CENTERS.—

(1) IN GENERAL.—The Under Secretary may solicit proposals for the establishment of a new Center under subsection (a)(2) from institutions of higher education or oceanographic research.

(2) PROPOSAL REQUIREMENTS.—A proposal under this subsection shall consist of—

(A) a proposed science program;

(B) a program management plan;

(C) a description of the facilities of the institution submitting the proposal;

(D) a description of relevant institutional capabilities;

(E) an operational safety plan;

(F) mechanisms for information transfer;

(G) a budget for the Center; and

(H) any other information the Under Secretary considers necessary.

(c) REVIEW OF PROPOSALS.—The Under Secretary and the Committee shall review each proposal submitted under subsection (b) on the basis of—

(1) relevance of the proposal to priority research areas; and

(2) the capability of the applicant institution to administer and direct research in those areas.

(d) CENTER DIRECTOR.—Each institution at which a Center is established under this section may select an individual who shall be the Director for that Center.

(e) 5-YEAR REVIEW OF CENTERS.—

(1) IN GENERAL.—The Under Secretary and the Committee shall jointly review the operation of each Center every 5 years. The first review of a Center shall be completed—

(A) in the case of a Center in existence on the day before the date of the enactment of this Act, by not later than the date which is 5 years after that date of enactment; and

(B) in the case of a Center established on or after that date of enactment, by the date which is 5 years after the date of the establishment of the Center.

(2) CONTENT OF REVIEW.—A review under this subsection shall consist of—

(A) an evaluation of the quality of the research conducted at the Center under the Program and the applicability of the research to the priority research areas, including consideration of the annual reviews and site visits conducted under section 907(c);

(B) recommendations for changes in the scientific research program and operations of the Center, that are considered beneficial by the Committee and the Under Secretary; and

(C) a determination of whether the continued operation of the Center will increase knowledge in the priority research areas.

(3) ESTABLISHMENT OF NEW CENTER AT DIFFERENT INSTITUTION.—If the Under Secretary and the Committee determine as a result of a review under this subsection that continued operation of a Center is not warranted, the Under Secretary shall—

(A) provide notification of that determination to the Center, including a description of any changes in the operations of the Center the Under Secretary considers necessary for continued operation of the Center;

(B) after 18 months after providing that notice, and not later than 2 years after providing that notice, review the implementation of those changes by the Center; and

(C) establish, at a different institution of higher education or oceanographic research, a new Center for the same undersea region in accordance with this section, if the Under Secretary determines as a result of that review that those changes are not implemented.

(f) 5-YEAR REVIEW OF UNDERSEA REGIONS.—

(1) REVIEW BY COMMITTEE.—The Committee shall—

(A) review the configurations of undersea regions every 5 years following the date of the enactment of this Act to determine whether those regions meet scientific needs for research in priority research areas; and

(B) provide to the Under Secretary appropriate recommendations for meeting those needs, regarding—

(i) any modification or merger of existing undersea regions, or establishment of new undersea regions, and

(ii) the establishment of new Centers or merger of existing Centers for any undersea regions recommended to be established or merged.

(2) MODIFICATION, MERGER, OR ESTABLISHMENT OF REGIONS.—The Under Secretary may establish a new undersea region or modify or merge any existing undersea region or regions if, based on a recommendation by the Committee under paragraph (1)(B), the Under Secretary determines there is a scientific need for that establishment, modification, or merger.

(3) ESTABLISHMENT OR MERGER OF CENTERS.—If the Under Secretary establishes or merges any undersea region under paragraph (2), the Under Secretary may, in accordance with section 906 and any recommendations provided by the Committee under paragraph (1)(B), establish a new Center or merge existing Centers for the resulting undersea region.

(g) PROHIBITION.—Except as provided in subsections (a) and (f)(3), the Under Secretary may not establish or merge any Centers.

SEC. 907. NATIONAL UNDERSEA RESEARCH CENTER RESEARCH PROGRAMS.

(a) INDIVIDUAL RESEARCH PROPOSALS.—

(1) SOLICITATION.—Each Center Director shall annually solicit individual proposals from the scientific community for research to advance the priority research areas of the Program. Research under each proposal shall be primarily conducted within the undersea region of the Center, but may be conducted in another undersea region in cooperation with the Center for that region, or other geographic areas with the approval of the Program Director. Individual proposals shall adhere to guidelines established by the Program Director pursuant to section 904(d)(2). Proposals under this paragraph may be for multi-year research.

(2) INDIVIDUAL PROPOSAL REVIEW PROCESS.—Each individual proposal shall be reviewed by the Center Director or his or her designees and not less than 3 anonymous mail reviewers from the list of reviewers maintained by the Program Director pursuant to section 904(d)(1). Each review shall consider—

(A) the scientific merit of the proposal;

(B) the applicability of the proposal to the priority research areas; and

(C) the capability of the principal investigator to carry out the proposed research.

(3) ALLOWANCE FOR RESPONSE.—

(A) IN GENERAL.—Subject to any regulation that is issued by the Program Director under subparagraph (C), a Center Director shall provide to each person who submits a proposal under this section to the Center copies of all written reviews of the proposal conducted by the Center Director, his or her designees, and anonymous reviewers, and shall give the person not less than 14 days to respond to those reviews before rendering any final decision regarding funding for the proposal.

(B) REVIEW OF PROCESS BY COMMITTEE.—Not later than 3 years after the date of the enactment of this Act, the Committee shall—

(i) determine whether all Centers are implementing subparagraph (A);

(ii) determine whether the opportunity of persons who submit proposals to respond to reviews pursuant to subparagraph (A) has been utilized by those persons;

(iii) determine whether those responses have been effective in ensuring full and fair consideration of those proposals; and

(iv) recommend to the Program Director that the procedures established by subparagraph (A) be continued, terminated, or modified (including the specific modifications which should be made).

(C) ISSUANCE OF REGULATION.—Notwithstanding subparagraph (A), the Program Director may issue a regulation implementing any recommendation made by the Committee under subparagraph (B)(iv).

(b) PROPOSED CENTER PROGRAM.—Not later than October 31 of each year, each Center Director shall submit to the Program Director—

(1) a proposed program for the Center for that fiscal year, which shall adhere to guidelines established by the Program Director pursuant to section 904(d)(2) and shall include—

(A) a description of the activities performed and research funded by the Center in the previous fiscal year;

(B) those individual research proposals submitted under subsection (a) that the Center Director determines to be meritorious based on reviews conducted under that subsection;

(C) a proposed budget for operation of the Center for the current fiscal year; and

(D) any other materials requested by the Program Director to clarify the proposed program; and

(2) reviews (including responses under subsection (a)(3) to the reviews) of all individual research proposals submitted to the Center Director for the current fiscal year, including those research proposals not selected for inclusion in the proposed program of the Center.

(c) REVIEW OF PROPOSED CENTER PROGRAM.—

(1) IN GENERAL.—The Program Director, in consultation with the Committee, shall review the proposed program for the current fiscal year submitted by each Center Director under subsection (b).

(2) SITE VISITS.—At least once every 2 years, the review of a proposed program of a Center under this subsection shall include a formal inspection of the Center by a site visit team. The site visit team shall—

(A) be composed of not less than 4 individuals appointed by the Program Director with experience in undersea research, at least one of whom shall be a member of the Committee and 2 of whom are selected from the list maintained under section 904(d)(1);

(B) assess the quality of the individual research proposals included in the proposed program; and

(C) assess the ability of the Center to oversee the research included in the proposed program.

(d) REQUIRING ADDITIONAL PROPOSED PROGRAMS PROHIBITED.—Except as provided in this section, a center shall not be required to submit to the Program Director or the Under Secretary any program proposal.

(e) GIFTS, DEVISES, AND BEQUESTS.—Each Center may accept, solicit, and use the services of volunteers, and may accept, receive, hold, administer, and use gifts, devises, and bequests, to carry out the research program of the Center.

SEC. 908. REGIONAL UNDERSEA RESEARCH CENTER PROGRAM GRANTS.

(a) AUTHORIZATION.—The Under Secretary may use amounts appropriated to carry out the Program to make grants and enter into contracts under this subsection to fund any Center program if the Under Secretary finds that the program will advance knowledge in the priority research areas.

(b) ALLOCATION OF FUNDING.—

(1) IN GENERAL.—Not later than April 1 of each year and based on the reviews under section 907(c) of proposed programs, the Under Secretary shall—

(A) allocate among the Centers, in such manner as will best advance knowledge in the priority research areas, all amounts available for the current fiscal year for research to be conducted by, and administration of, the Centers; and

(B) notify each Center Director of the amount allocated to that Center under subparagraph (A) for the current fiscal year.

(2) LIMITATION ON ALLOCATION PER CENTER.—The total amount which may be allocated for any fiscal year for activities conducted by any one Center shall not exceed 20 percent of the total amounts available for the Program for that fiscal year, except that the Under Secretary may allocate a greater amount for a Center for the purpose of making major capital expenditures for the Center.

(c) TERMS AND CONDITIONS.—

(1) IN GENERAL.—Any grant made, or contract entered into, under this section shall be subject to paragraphs (2) and (3), and to any other terms, conditions, and requirements the Under Secretary considers necessary.

(2) LIMITATIONS ON USES.—

(A) LAND AND BUILDINGS.—No payment under any grant or contract under this section may be applied to—

(i) the purchase of any land; or

(ii) the purchase or construction of any building.

(B) ADMINISTRATION.—At least 60 percent of the amount of a grant or contract under this section shall be used to fund individual research proposals carried out with the grant or contract.

(3) MAINTENANCE OF RECORDS.—Any person who receives or utilizes any proceeds of any grant or contract under this section shall keep any records the Under Secretary prescribes as necessary to facilitate effective audit and evaluation, including reports which fully disclose the amount and disposition of funds received under this subtitle, the total cost of activities for which those funds were used, and the amount, if any, of costs which were provided through other sources. The records shall be maintained for 3 years after the completion of the activity. The Under Secretary and the Comptroller General of the United States, or any of their duly authorized representatives, shall have access, for the purpose of audit and evaluation, to any books, documents, papers, and records of receipts which, in the opinion of the Under Secretary or of the Comptroller General, may be related or pertinent to the grants and contracts.

SEC. 909. FINANCIAL ASSISTANCE REVIEW BOARD.

After the date of the enactment of this Act, grants and contracts under the Program shall not be subject to review by the board in the Department of Commerce known as the Financial Assistance Review Board.

SEC. 910. AUTHORIZATION OF APPROPRIATIONS.

(a) CENTER PROGRAM FUNDING.—There is authorized to be appropriated to the Under Secretary for use for grants and contracts under section 908, to remain available until expended—

(1) $20,000,000 for fiscal year 1993;

(2) $22,000,000 for fiscal year 1994;

(3) $24,000,000 for fiscal year 1995;

(4) $26,000,000 for fiscal year 1996; and

(5) $28,000,000 for fiscal year 1997.

(b) MANAGEMENT, ADMINISTRATION, AND STUDIES.—There is authorized to be appropriated to the Under Secretary for management and administration of the Program (including administration of grants and contracts under section 908, the development of undersea research technology, and the conduct of studies of underwater diving techniques and equipment under section 21(e) of the Outer Continental Shelf Lands Act (43 U.S.C. 1347(c))), to remain available until expended—

(1) $3,000,000 for fiscal year 1993;

(2) $3,100,000 for fiscal year 1994;

(3) $3,200,000 for fiscal year 1995;

(4) $3,300,000 for fiscal year 1996; and

(5) $3,400,000 for fiscal year 1997.

(c) LIMITATION ON USE.—Amounts appropriated under the authority of subsection (a) shall not be available for administration of this subtitle by the Office, or for program or administrative expenses of the Administration.

(d) REVERSION OF UNOBLIGATED AMOUNTS.—The amount of any grant, contract, or portion of a grant or contract, made under section 908 that is not obligated before the end of the third fiscal year in which it is authorized to be obligated shall revert to the Under Secretary. The Under Secretary shall add that reverted amount to the funds available for grants under section 908.

Subtitle B—Miscellaneous

SEC. 921. GREAT LAKES UNDERSEA RESEARCH CENTER.

(a) IN GENERAL.—Subject to the limitations in subsections (a)(2)(A) and (a)(3) of section 906, and not later than December 31, 1993, the Under Secretary of Commerce for Oceans and Atmosphere shall establish a National Undersea Research Center for the Great Lakes region in accordance with section 906 to implement the National Undersea Research Program established under section 904 for that region, at a qualified institution.

(b) DEFINITIONS.—For purposes of this section—

(1) "qualified institution" means an institution of higher education—

(A) located directly on the shoreline of one of the Great Lakes;

(B) with strong undergraduate and graduate programs in engineering, science, and technology as they may apply to undersea research;

(C) with facilities for maintaining research vessels appropriate for deployment of equipment necessary to conduct undersea research;

(D) with faculty and other personnel with expertise in undersea research;

(E) which has received funding from the National Undersea Research Program in the past; and

(F) which maintains cooperative institutional relationships with Federal agencies responsible for research work on the Great Lakes; and

(2) "undersea research" has the meaning that term has in section 903(10).

SEC. 922. PROCEDURES FOR JOINT REVIEW OF RESEARCH PROPOSALS.

The Under Secretary, in consultation with the Program Director, and jointly with the Director of the National Science Foundation and the Secretary of the Navy, shall—

(1) develop procedures for the submittal and joint review of proposals for research in priority research areas to be carried out with assistance from 2 or more agencies within the Department of Commerce, the National Science Foundation, or the Department of Defense; and

(2) issue final rules establishing those procedures by not later than 1 year after the date of the enactment of this Act.

SEC. 923. COMPLIANCE WITH BUY AMERICAN ACT.

No funds appropriated pursuant to this title may be expended by an entity unless the entity agrees that in expending the assistance the entity will comply with sections 2 through 4 of the Act of March 3, 1933 (41 U.S.C. 10a–10c, popularly known as the "Buy American Act").

SEC. 924. SENSE OF CONGRESS; REQUIREMENT REGARDING NOTICE.

(a) PURCHASE OF AMERICAN-MADE EQUIPMENT AND PRODUCTS.—In the case of any equipment or product that may be authorized to be purchased with financial assistance provided under this title, it is the sense of the Congress that entities receiving such assistance should, in expending the assistance, purchase only American-made equipment and products.

(b) NOTICE TO RECIPIENTS OF ASSISTANCE.—In providing financial assistance under this title, the Under Secretary of Commerce for Oceans and Atmosphere shall provide to each recipient of the assistance a notice describing the statement made in subsection (a) by the Congress.

Amend the title so as to read: "An Act to enhance the effectiveness of the United Nations international driftnet fishery conservation program, repeal the Coast Guard recreational boat user fee, ensure fair trade in the commercial shipbuilding and repair industry, provide funds to coastal States to protect the marine environment through the use of pumpout stations for recreational vessels, establish a program of research to better understand ocean and large lakes ecosystems, and for other purposes.".

AMENDMENT NO. 2943

Mr. MITCHELL. Mr. President, I move that the Senate concur in the House amendments with the further

amendment which I now send to the desk on behalf of Senators PACKWOOD, HOLLINGS, STEVENS, KERRY, and others.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Maine [Mr. MITCHELL] for Mr. PACKWOOD (for himself, Mr. HOLLINGS, Mr. STEVENS, Mr. KERRY, Mr. GORTON, Mr. ADAMS, Mr. LOTT, Mr. BREAUX, Mr. MURKOWSKI, and Mr. RIEGLE) proposes an amendment numbered 2943.

Strike all after the enacting clause and insert in lieu thereof the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "High Seas Driftnet Fisheries Enforcement Act".

SEC. 2. FINDINGS AND POLICY.

(a) FINDINGS.—Congress makes the following findings:

(1) Large—scale driftnet fishing on the high seas is highly destructive to the living marine resources and ocean ecosystems of the world's oceans, including anadromous fish and other living marine resources of the United States.

(2) The cumulative effects of large-scale driftnet fishing pose a significant threat to the marine ecosystem, and slow-reproducing species like marine mammals, sharks, and seabirds may require many years to recover.

(3) Members of the international community have reviewed the best available scientific data on the impacts of large-scale pelagic driftnet fishing, and have failed to conclude that this practice has no significant adverse impacts which threaten the conservation and sustainable management of living marine resources.

(4) the United Nations, via General Assembly Resolutions numbered 44-225, 45-197 and most recently 46-215 (adopted on December 20, 1991), has called for a worldwide moratorium on all high seas driftnet fishing by December 31, 1992, in all the world's oceans, including enclosed seas and semi-enclosed seas.

(5) The United Nations has commended the unilateral, regional, and international efforts undertaken by members of the international community and international organizations to implement and support the objectives of the General Assembly resolutions.

(6) Operative paragraph (4) of United Nations General Assembly Resolution numbered 46-215 specifically "encourages all members of the international community to take measures individually and collectively to prevent large-scale pelagic driftnet fishing operations on the high seas of the world's oceans and seas."

(7) The United States, in section 307(1)(M) of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1857(1)(M)), has specifically prohibited the practice of large-scale driftnet fishing by United States nationals and vessels both within the exclusive economic zone of the United States and beyond the exclusive economic zone of any nation.

(8) The Senate, through Senate Resolution 396 of the 100th Congress (approved on March 18, 1988), has called for a moratorium on fishing in the Central Bering Sea and the United States has taken concrete steps to implement such moratorium through international negotiations.

(9) Despite the continued evidence of a decline in the fishery resources of the Bering Sea and the multiyear cooperative negotiations undertaken by the United States, the Russian Federation, Japan, and other concerned fishing nations, some nations refuse to agree to measures to reduce or eliminate unregulated fishing practices in the waters of the Bering Sea beyond the exclusive economic zones of the United States and the Russian Federation.

(10) In order to ensure that the global moratorium on large-scale driftnet fishing called for in United Nations General Assembly Resolution numbered 46-215 takes effect by December 31, 1992, and that unregulated fishing practices in the waters of the Central Bering Sea are reduced or eliminated, the United States should take the actions described in this Act and encourage other nations to take similar action.

(b) POLICY.—It is the stated policy of the United States to—

(1) implement United Nations General Assembly resolution numbered 46-215 approved unanimously on December 20, 1991, which calls for an immediate cessation to further expansion of large-scale driftnet fishing, a 50 percent reduction in existing large-scale driftnet fishing effort by June 30, 1992, and a global moratorium on the use of large-scale driftnets beyond the exclusive ecomomic zone of any nation by December 31, 1992;

(2) bring about a moratorium on fishing in the Central Bering Sea, or an international conservation and management agreement to which the United States and the Russian Federation are parties that regulation fishing in the Central Bering Sea; and

(3) secure a permanent ban on the use of destructive fishing practices, and in particular large-scale driftnets, by persons or vessels fishing beyond the exclusive economic zone of any nation.

TITLE I—HIGH SEAS LARGE-SCALE DRIFTNET FISHING

SEC. 101. DENIAL OF PORT PRIVILEGES AND SANCTIONS FOR HIGH SEAS LARGE-SCALE DRIFTNET FISHING.

(a) DENIAL OF PORT PRIVILEGES.—

(1) PUBLICATION OF LIST.—Not later than 30 days after the date of enactment of this Act and periodically thereafter, the Secretary of Commerce, in consultation with the Secretary of State, shall publish a list of nations whose nationals or vessels conduct large-scale driftnet fishing beyond the exclusive economic zone of any nation.

(2) DENIAL OF PORT PRIVILEGES.—The Secretary of the Treasury shall, in accordance with recognized principles of international law—

(A) withhold or revoke the clearance required by section 4197 of the Revised Statutes of the United States (46 App. U.S.C. 91) for any large-scale driftnet fishing vessel that is documented under the laws of the United States or of a nation included on a list published under paragraph (1); and

(B) deny entry of that vessel to any place in the United States and to the navigable waters of the United States.

(3) NOTIFICATION OF NATION.—Before the publication of a list of nations under paragraph (1), the Secretary of State shall notify each nation included on that list regarding—

(A) the effect of that publication on port privileges of vessels of that nation under paragraph (1); and

(B) any sanctions or requirements, under this Act or any other law, that may be imposed on that nation if nationals or vessels of that nation continue to conduct large-scale driftnet fishing beyond the exclusive economic zone of any nation after December 31, 1992.

(b) SANCTIONS.—

(1) IDENTIFICATIONS.—

(A) INITIAL IDENTIFICATIONS.—Not later than January 10, 1993, the Secretary of Commerce shall—

(i) identify each nation whose nationals or vessels are conducting large-scale driftnet fishing beyond the exclusive economic zone of any nation; and

(ii) notify the President and that nation of the identification under clause (i).

(B) ADDITIONAL IDENTIFICATIONS.—At any time after January 10, 1993, whenever the Secretary of Commerce has reason to believe that the nationals or vessels of any nation are conducting large-scale driftnet fishing beyond the exclusive economic zone of any nation, the Secretary of Commerce shall—

(i) identify that nation; and

(ii) notify the President and that nation of the identification under clause (i).

(2) CONSULTATIONS.—Not later than 30 days after a nation is identified under paragraph (1)(B), the President shall enter into consultations with the government of that nation for the purpose of obtaining an agreement that will effect the immediate termination of large-scale driftnet fishing by the nationals or vessels of that nation beyond the exclusive economic zone of any nation.

(3) PROHIBITION ON IMPORTS OF FISH AND FISH PRODUCTS AND SPORT FISHING EQUIPMENT.—

(A) PROHIBITION.—The President—

(i) upon receipt of notification of the identification of a nation under paragraph (1)(A); or

(ii) if the consultations with the government of a nation under paragraph (2) are not satisfactorily concluded within 90 days, shall direct the Secretary of the Treasury to prohibit the importation into the United States of fish and fish products and sport fishing equipment (as that term is defined in section 4162 of the Internal Revenue Code of 1986 (26 U.S.C. 4162)) from that nation.

(B) IMPLEMENTATION OF PROHIBITION.—With respect to an import prohibition directed under subparagraph (A), the Secretary of the Treasury shall implement such prohibition not later than the date that is 45 days after the date on which the Secretary has received the direction from the President.

(C) PUBLIC NOTICE OF PROHIBITION.—Before the effective date of any import prohibition under this paragraph, the Secretary of the Treasury shall provide public notice of the impending prohibition.

(4) ADDITIONAL ECONOMIC SANCTIONS.—

(A) DETERMINATION OF EFFECTIVENESS OF SANCTIONS.—Not later than 6 months after the date the Secretary of Commerce identifies a nation under paragraph (1), the Secretary shall determine whether—

(i) any prohibition established under paragraph (3) is insufficient to cause that nation to terminate large-scale driftnet fishing conducted by its nationals and vessels beyond the exclusive economic zone of any nation; or

(ii) that nation has retaliated against the United States as a result of that prohibition.

(B) CERTIFICATION.—The Secretary of Commerce shall certify to the President each affirmative determination under subparagraph (A) with respect to a nation.

(C) EFFECT OF CERTIFICATION.—Certification by the Secretary of Commerce under subparagraph (B) is deemed to be a certification under section 8(a) of the Fishermen's Protective Act of 1967 (22 U.S.C. 1978(a)), as amended by this Act.

SEC. 102. DURATION OF DENIAL OF PORT PRIVILEGES AND SANCTIONS.

Any denial of port privileges or sanction under section 101 with respect to a nation shall remain in effect until such time as the Secretary of Commerce certifies to the President and the Congress that such nation

has terminated large-scale driftnet fishing by its nationals and vessels beyond the exclusive economic zone of any nation.

SEC. 103. REQUIREMENTS UNDER MARINE MAMMAL PROTECTION ACT OF 1972.

Section 101(a)(2) of the Marine Mammal Protection Act of 1972 (16 U.S.C. 1371(a)(2) is amended—

(1) in subparagraph (E)(1) by striking "July 1, 1992" and inserting in lieu thereof "January 1, 1993"; and

(2) in the last sentence by inserting ", except that, until January 1, 1994, the term 'driftnet' does not include the use in the northeast Atlantic Ocean of gillnets with a total length not to exceed 5 kilometers if the use is in accordance with regulations adopted by the European Community pursuant to the October 28, 1991, decision by the Council of Fisheries Ministers of the Community" immediately after "(16 U.S.C. 1822 note)".

SEC. 104. DEFINITIONS.

In this title, the following definitions apply:

(1) FISH AND FISH PRODUCTS.—The term "fish and fish products" means any aquatic species (including marine mammals and plants) and all products thereof exported from a nation, whether or not taken by fishing vessels of that nation or packed, processed, or otherwise prepared for export in that nation or within the jurisdiction thereof.

(2) LARGE-SCALE DRIFTNET FISHING.—

(A) IN GENERAL.—Except as provided in subparagraph (B), the term "large-scale driftnet fishing" means a method of fishing in which a gillnet composed of a panel or panels of webbing, or a series of such gillnets, with a total length of two and one-half kilometers or more is placed in the water and allowed to drift with the currents and winds for the purpose of entangling fish in the webbing.

(B) EXCEPTION.—Until January 1, 1994, the term "large-scale driftnet fishing" does not include the use of the northeast Atlantic Ocean of gillnets with a total length not to exceed 5 kilometers if the use in accordance with regulations adopted by the European Community pursuant to the October 28, 1991, decision by the Council of Fisheries Ministers of the Community.

(3) LARGE-SCALE DRIFTNET FISHING VESSEL.—The term "large-scale driftnet fishing vessel" means any vessel which is—

(A) used for, equipped to be used for, or of a type which is normally used for large-scale driftnet fishing; or

(B) used for aiding or assisting one or more vessels at sea in the performance of large-scale driftnet fishing, including preparation, supply, storage, refrigeration, transportation, or processing.

TITLE II—FISHERIES CONSERVATION PROGRAMS

SEC. 201. IMPORT RESTRICTIONS UNDER FISHERMEN'S PROTECTIVE ACT OF 1967.

(a) PRODUCTS SUBJECT TO RESTRICTION.—Section 8 of the Fishermen's Protective Act of 1967 (22 U.S.C. 1978) is amended—

(1) in subsection (a)(4) by striking "fish products" and all that follows through "such duration", and inserting in lieu thereof "any products from the offending country for any duration";

(2) in subsection (c) by striking "fish products or wildlife products" and inserting in lieu thereof "products";

(3) in subsection (3)(2) by striking "fish products and wildlife products" and inserting in lieu thereof "products"; and

(4) in subsection (f)—

(A) in paragraph (1) by striking "fish products and wildlife products" and inserting in lieu thereof "products"; and

(B) in paragraph (5)—

(i) in the first sentence by striking "fish products and wildlife products" and inserting in lieu thereof "products"; and

(ii) in the second sentence by striking "Fish products and wildlife products" and inserting in lieu thereof "Products".

(b) DEFINITIONS.—Section 8(h) of the Fishermen's Protective Act of 1967 (22 U.S.C. 1978(h)) is amended—

(1) by amending paragraph (2) to read as follows:

"(2) The term 'United States' means the several States, the District of Columbia, Puerto Rico, the Northern Mariana Islands, American Samoa, Guam, the Virgin Islands, and every other territory and possession of the United States.";

(2) in paragraph (3)—

(A) by inserting "bilateral or" immediately before "multilateral"; and

(B) by inserting ", including marine mammals" immediately after "protect the living resources of the sea";

(3) by striking paragraphs (4) and (6);

(4) by redesignating paragraphs (5) and (7) as paragraphs (4) and (5), respectively; and

(5) by amending paragraph (5), as so redesignated, to read as follows:

"(5) The term 'taking', as used with respect to animals to which an international program endangered or threatened species applies, means to—

"(A) harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect; or

"(B) attempt to harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect.".

SEC. 202. ENFORCEMENT.

(a) IN GENERAL.—Not later than 6 months after the date of the enactment of this Act, the Secretary of the department in which the Coast Guard is operating, the Secretary of Commerce, and the Secretary of Defense shall enter into an agreement under section 311(a) of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1861(a)) in order to make more effective the enforcement of domestic laws and international agreements that conserve and manage the living marine resources of the United States.

(b) TERMS.—The agreement entered into under subsection (a) shall include—

(1) procedures for identifying and providing the location of vessels that are in violation of domestic laws or international agreements to conserve and manage the living marine resources of the United States;

(2) requirements for the use of the surveillance capabilities of the Department of Defense; and

(3) procedures for communicating vessel locations to the Secretary of Commerce and the Coast Guard.

SEC. 203. TRADE NEGOTIATIONS AND THE ENVIRONMENT.

It is the sense of the Congress that the President, in carrying out multilateral, bilateral, and regional trade negotiations, should seek to—

(1) address environmental issues related to the negotiations;

(2) modify articles of the General Agreement on Tariffs and Trade (referred to in this section as "GATT") to take into consideration the national environmental laws of the GATT Contracting Parties and international environmental treaties;

(3) secure a working party on trade and the environment within GATT as soon as possible;

(4) take an active role in developing trade policies that make GATT more responsive to national and international environmental concerns;

(5) include Federal agencies with environmental expertise during the negotiations to determine the impact of the proposed trade agreements on national environmental law; and

(6) periodically consult with interested parties concerning the progress of the negotiations.

TITLE III—FISHERIES ENFORCEMENT IN CENTRAL BERING SEA

SEC. 301. SHORT TITLE.

This title may be cited as the "Central Bering Sea Fisheries Enforcement Act of 1992".

SEC. 302. PROHIBITION APPLICABLE TO UNITED STATES VESSELS AND NATIONALS.

(a) PROHIBITION.—Vessels and nationals of the United States are prohibited from conducting fishing operations in the Central Bering Sea, except where such fishing operations are conducted in accordance with an international fishery agreement to which the United States and the Russian Federation are parties.

(b) CIVIL PENALTIES AND PERMIT SANCTIONS.—A violation of this section shall be subject to civil penalties and permit sanctions under section 308 of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1858).

SEC. 303. PORT PRIVILEGES DENIAL FOR FISHING IN CENTRAL BERING SEA.

(a) DENIAL OF PORT PRIVILEGES.—The Secretary of the Treasury shall, after December 31, 1992, in accordance with recognized principles of international law—

(1) withhold or revoke the clearance required by section 4197 of the Revised Statutes of the United States (46 App. U.S.C. 91) for any fishing vessel documented under the laws of a nation that is included on a list published under subsection (b); and

(2) deny entry of such fishing vessel to any place in the United States and to the navigable waters of the United States.

(b) PUBLICATION OF LIST.—Not later than 45 days after the date of enactment of this Act, the Secretary of Commerce, in consultation with the Secretary of State and the Secretary of the department in which the Coast Guard is operating, shall publish in the Federal Register a list of nations whose nationals or vessels conduct fishing operations in the Central Bering Sea, except where such fishing operations are in accordance with an international fishery agreement to which the United States and the Russian Federation are parties. The Secretary shall publish as an addendum to the list the name of each vessel documented under the laws of each listed nation which conducts fishing operations in the Central Bering Sea. A revised list shall be published whenever the list is no longer accurate, except that a nation may not be removed from the list unless—

(1) the nationals and vessels of that nation have not conducted fishing operations in the Central Bering Sea for the previous 90 days and the nation has committed, through a bilateral agreement with the United States or in any other manner acceptable to the Secretary of Commerce, not to permit its nationals or vessels to resume such fishing operations; or

(2) the nationals and vessels of that nation are conducting fishing operations in the Central Bering Sea that are in accordance with an international fishery agreement to which the United States and the Russian Federation are parties.

(c) NOTIFICATION OF NATION.—Before the publication of a list of nations under subsection (b), the Secretary of State shall notify each nation included on that list and ex-

plain the requirement to deny the port privileges of fishing vessels of that nation under subsection (a) as a result of such publication.

SEC. 304. DURATION OF PORT PRIVILEGES DENIAL.

Any denial of port privileges under section 303 with respect to any fishing vessel of a nation shall remain in effect until such nation is no longer listed under section 303(b).

SEC. 305. RESTRICTION ON FISHING IN UNITED STATES EXCLUSIVE ECONOMIC ZONE.

(a) REGULATIONS.—Within 180 days after the date of enactment of this Act, after notice and public comment, the Secretary of Commerce shall issue regulations, under the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1801 et seq.) and any other applicable law, to prohibit—

(1) any permitted fishing vessel from catching, taking, or harvesting fish in a fishery under the geographical authority of the North Pacific Fishery Management Council if such vessel is owned or controlled by any person that also owns or controls a fishing vessel that is listed on the addendum under section 303(b);

(2) any processing facility from receiving any fish caught, taken, or harvested in a fishery under the geographical authority of the North Pacific Fishery Management Council if such facility is owned or controlled by any person that also owns or controls a fishing vessel that is listed on the addendum under section 303(b); and

(3) any permitted fishing vessel from delivering fish caught, taken, or harvested in a fishery under the geographic authority of the North Pacific Fishery Management Council to a processing facility that is owned or controlled by any person that also owns or controls a fishing vessel that is listed on the addendum under section 303(b).

(b) REQUIREMENT FOR SUBMISSION OF DOCUMENTS.—The Secretary of Commerce shall require under any regulations issued under subsection (a) the submission of any affidavits, financial statements, corporate agreements, and other documents that the Secretary of Commerce determines, after notice and public comment, are necessary to ensure that all vessels and processing facilities are in compliance with this section.

(c) APPEALS; DURATION OF PROHIBITIONS.—The regulations issued under subsection (a) shall—

(1) establish procedures for a person to appeal a decision to impose a prohibition under subsection (a) on a vessel or processing facility owned or controlled by that person; and

(2) specify procedures for the remvoal of any prohibition imposed on a vesel or processing facility under subsection (a)—

(A) upon publication of a revised list under section 303(b), and a revised addendum which does not include a fishing vessel owned or controlled by the person who also owns or controls the vessel or facility to which the prohibition applies; or

(B) on the date that is 90 days aftr such person terminates ownership and control in fishing vessels that are listed on the addendum under section 303(b).

SEC. 306. DEFINITIONS.

In this title, the following definitions apply:

(1) CENTRAL BERING SEA.—The term "Central Bering Sea" means the central Bering Sea area which is more than 200 nautical miles seaward of the baselines from which the breadth of the territorial seas of the United States and the Russian Federation are measured.

(2) FISHING VESSEL.—The term "fishing vessel" means any vessel which is used for—

(A) catching, taking, or harvesting fish; or

(B) aiding or assisting one or more vessels at sea in the performance of fishing operations, including preparation, supply, storage, refrigeration, transportation, or processing.

(3) OWNS OR CONTROLS.—When used in reference to a vessel or processing facility—

(A) the term "owns" means holding legal title to the vessel or processing facility; and

(B) the term "controls" includes an absolute right to direct the business of the person owning the vessel or processing facility, to limit the actions of or replace the chief executive officer (by whatever title), a majority of the board of directors, or any general partner (as applicable) of such person, to direct the transfer or operations of the vessel or processing facility, or otherwise to exercise authority over the business of such person, but the term does not include the right simply to participate in those activities of such person or the right to receive a financial return, such as interest or the equivalent of interest, on a loan or other financing obligation.

(4) PERMITTED FISHING VESSEL.—The term "permitted fishing vessel" means any fishing vessel that is subject to a permit issued by the Secretary of Commerce under the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1801 et seq.).

(5) PERSON.—The term "person" means any individual (whether or not a citizen of the United States), any corporation, partnership, association, cooperative, or other entity (whether or not organized under the laws of any State), and any State, local, or foreign government, or any entity of such government or the Federal Government.

(6) PROCESSING FACILITY.—The term "processing facility" means any fish processing establishment or fish processing vessel that receives unprocessed fish.

SEC. 307. TERMINATION.

This title shall cease to have force and effect after the date that is 7 years after the date of enactment of this Act, except that any proceeding with respect to violations of section 302 occurring prior to such termination date shall be conducted as if that section were still in effect.

TITLE IV—MISCELLANEOUS PROVISIONS

SEC. 401. INTERMEDIARY NATIONS INVOLVED IN EXPORT OF CERTAIN TUNA PRODUCTS.

(a) INTERMEDIARY NATION DEFINED.—Section 3 of the Marine Mammal Protection Act of 1972 (16 U.S.C. 1362) is amended by redesignating paragraphs (5) through (14) as paragraphs (6) through (15), respectively, and by inserting immediately after paragraph (4) the following new paragraph:

"(5) The term 'intermediary nation' means a nation that exports yellowfin tuna or yellowfin tuna products to the United States and that imports yellowfin tuna or yellowfin tuna products that are subject to a direct ban on importation into the United States pursuant to section 101(a)(2)(B).".

(b) EMBARGO ON IMPORTS FROM INTERMEDIARY NATIONS.—Section 101(a)(2)(C) of the Marine Mammal Protection Act of 1972 (16 U.S.C. 1371(a)(2)(C)) is amended to read as follows:

"(C) shall require the government of any intermediary nation to certify and provide reasonable proof to the Secretary that it has not imported, within the preceding six months, any yellowfin tuna or yellowfin tuna products that are subject to a direct ban on importation to the United States under subparagraph (B);".

SEC. 402. AUTHORITY TO EXTEND REEMPLOYMENT RIGHTS.

For purposes of employee rights and entitlements conferred by or pursuant to subchapter IV of chapter 35 of title 5, United States Code, the Secretary of State may, notwithstanding any other law or regulation, extend the reemployment rights of an employee of the United States who, as of January 1, 1992, was serving with the Intergovernmental Panel on Climate Change. Such extension may be made for 2 years, and may be further extended for 1 year, if the Secretary of State determines that such service is in the national interest and is necessary to facilitate the activities of the Intergovernmental Panel on Climate Change or any successor organization.

SEC. 403. LIMITATION OF TERMS OF VOTING MEMBERS OF REGIONAL FISHERY MANAGEMENT COUNCILS.

Section 302(b)(3) of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1852(b)(3)) is amended by striking "January 1, 1986" the second place it appears and inserting in lieu thereof "December 31, 1987".

SEC. 404. OBSERVER FEE FOR NORTH PACIFIC FISHERIES RESEARCH PLAN.

Section 313(b)(2)(E) of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1862(b)(2)(E)) is amended by striking "one percentum, of the" and inserting in lieu thereof "2 percent, of the unprocessed ex-vessel".

TITLE V—FEES

SEC. 501. RECREATIONAL BOAT TAX REPEAL.

(a) IN GENERAL.—

(1) SCOPE OF FEE.—Section 2110(b)(1) of title 46, United States Code, is amended—

(A) by striking "1991, 1992, 1993, 1994, and 1995", and inserting in lieu thereof "1993 and 1994"; and

(B) by striking "that is greater than 16 feet in length" and inserting in lieu thereof "to which paragraph (2) of this subsection applies".

(2) AMOUNT OF FEE.—Section 2110(b)(2) of title 46, United States Code, is amended to read as follows:

"(2) The fee or charge established under paragraph (1) of this subsection is as follows:

"(A) in fiscal year 1993—

"(i) for vessels of more than 21 feet in length but less than 27 feet, not more than $35;

"(ii) for vessels of at least 27 feet in length but less than 40 feet, not more than $50; and

"(iii) for vessels of at least 40 feet in length, not more than $100.

"(B) in fiscal year 1994—

"(i) for vessels of at least 37 feet in length but less than 40 feet, not more than $50; and

"(ii) for vessels of at least 40 feet in length, not more than $100.".

(b) EFFECTIVE DATE.—The amendments made by this section are effective October 1, 1992.

SEC. 502. AUTOMATED TARIFF FILING AND INFORMATION SYSTEM.

(a) DEFINITIONS.—In this section, the following definitions apply:

(1) COMMISSION.—The term "Commission" means the Federal Maritime Commission.

(2) COMMON CARRIER.—The term "common carrier" means a common carrier under section 3 of the Shipping Act of 1984 (46 App. U.S.C. 1702), a common carrier by water in interstate commerce under the Shipping Act, 1916 (46 App. U.S.C. 801 et seq.), or a common carrier by water in intercoastal commerce under the Intercoastal Shipping Act, 1933 (46 App. U.S.C. 843 et seq.).

(3) CONFERENCE.—The term "conference" has the meaning given that term under sec-

tion 3 of the Shipping Act of 1984 (46 App. U.S.C. 1702).

(4) ESSENTIAL TERMS OF SERVICE CONTRACTS.—The term "essential terms of service contracts" means the essential terms that are required to be filed with the Commission and made available under section 8(c) of the Shipping Act of 1984 (46 App. U.S.C. 1707(c)).

(5) TARIFF.—The term "tariff" means a tariff of rates, charges, classifications, rules, and practices required to be filed by a common carrier or conference under section 8 of the Shipping Act of 1984 (46 App. U.S.C. 1707), or a rate, fare, charge, classification, rule, or regulation required to be filed by a common carrier or conference under the Shipping Act, 1916 (46 U.S.C. 801 et seq.), or the Intercoastal Shipping Act, 1933 (46 App. U.S.C. 843 et seq.).

(b) TARIFF FORM AND AVAILABILITY.—

(1) REQUIREMENT TO FILE.—Notwithstanding any other law, each common carrier and conference shall, in accordance with subsection (c), file electronically with the Commission all tariffs, and all essential terms of service contracts, required to be filed by that common carrier or conference under the Shipping Act of 1984 (46 App. U.S.C. 1701 et seq.), the Shipping Act, 1916 (46 App. U.S.C. 801 et seq.), and the Intercoastal Shipping Act, 1933 (46 App. U.S.C. 843 et seq.).

(2) AVAILABILITY OF INFORMATION.—The Commission shall make available electronically to any person, without time, quantity, or other limitation, both at the Commission headquarters and through appropriate access from remote terminals—

(A) all tariff information, and all essential terms of service contracts, filed in the Commission's Automated Tariff Filing and Information System database; and

(B) all tariff information in the System enhanced electronically by the Commission at any time.

(c) FILING SCHEDULE.—New tariffs and new essential terms of service contracts shall be filed electronically not later than July 1, 1992. All other tariffs, amendments to tariffs, and essential terms of service contracts shall be filed not later than September 1, 1992.

(d) FEES.—

(1) AMOUNT OF FEE.—The Commission shall charge, beginning July 1 of fiscal year 1992 and in fiscal years 1993, 1994, and 1995—

(A) a fee of 46 cents for each minute of remote computer access by any individual of the information available electronically under this section; and

(B)(i) for electronic copies of the Automated Tariff Filing and Information System database (in bulk), or any portion of the database, a fee reflecting the cost of providing those copies, including the cost of duplication, distribution, and user-dedicated equipment; and

(ii) for a person operating or maintaining information in a database that has multiple tariff or service contract information obtained directly or indirectly from the Commission, a fee of 46 cents for each minute that database is subsequently accessed by computer by any individual.

(2) EXEMPTION FOR FEDERAL AGENCIES.—A Federal agency is exempt from paying a fee under this subsection.

(e) ENFORCEMENT.—The Commission shall use systems controls or other appropriate methods to enforce subsection (d).

(f) PENALTIES.—

(1) CIVIL PENALTIES.—A person failing to pay a fee established under subsection (d) is liable to the United States Government for a civil penalty of not more than $5,000 for each violation.

(2) CRIMINAL PENALTIES.—A person that willfully fails to pay a fee established under subsection (d) commits a class A misdemeanor.

(g) AUTOMATIC FILING IMPLEMENTATION.—

(1) CERTIFICATION OF SOFTWARE.—Software that provides for the electronic filing of data in the Automated Tariff Filing and Information System shall be submitted to the Commission for Certification. Not later than 14 days after a person submits software to the Commission for certification, the Commission shall—

(A) certify the software if it provides for the electronic filing of data; and

(B) publish in the Federal Register notice of that certification.

(2) REPAYABLE ADVANCE.—

(A) AVAILABILITY AND USE OF ADVANCE.—Upon the date of enactment of this Act, the Secretary of the Treasury shall make available to the Commission, as a repayable advance, not more than $4,000,000, to remain available until expended. The Commission shall spend these funds to complete and upgrade the capacity of the Automated Tariff Filing and Information System to provide access to information under this section.

(B) REQUIREMENT TO REPAY.—

(i) IN GENERAL.—Any advance made to the Commission under subparagraph (A) shall be repaid, with interest, to the general fund of the Treasury not later than September 30, 1995.

(ii) INTEREST.—Interest on any advance made to the Commission under subparagraph (A)—

(I) shall be at a rate determined by the Secretary of the Treasury, as of the close of the calendar month preceding the month in which the advance is made, to be equal to the current average market yield on outstanding marketable obligations of the United States with remaining periods to maturity comparable to the anticipated period during which the advance will be outstanding; and

(II) shall be compounded annually.

(3) USE OF RETAINED AMOUNTS.—Out of amounts collected by the Commission under this section, amounts shall be retained and expended by the Commission for each fiscal year, without fiscal year limitation, to carry out this section and pay back the Secretary of the Treasury for the advance made available under paragraph (2).

(4) DEPOSIT IN TREASURY.—Except for the amounts retained by the Commission under paragraph (3), fees collected under this section shall be deposited in the general fund of the Treasury as offsetting receipts.

(h) RESTRICTION.—No fee may be collected under this section after fiscal year 1995.

(i) CONFORMING AMENDMENT.—Section 2 of the Act of August 16, 1989 (46 App. U.S.C. 1111c), is repealed.

Mr. PACKWOOD. Mr. President, the Packwood substitute amendment to H.R. 2152, puts an end to these curtains of death on the high seas by placing mandatory sanctions on countries that do not stop driftnet fishing by the end of this year.

I truly hope that the third time is a charm for this amendment, Mr. President, because this will be the third time I have moved a driftnets bill out of the Senate and over to the House in this Congress. I certainly hope they will get this to the President for his signature at the earliest possible date. I thank the chair.

Mr. LEAHY. Mr. President, I support the repeal of the Coast Guard user fees that are now being assessed on recreational boaters.

However, I am concerned about the provision in this bill which would impose a fee on the use of tariff data obtained from a planned electronic database at the Federal Maritime Commission. The fee would be imposed upon the first person accessing the data and upon any subsequent user of that data. Moreover, the new system will not make tariff data available in paper format. Thus, anyone seeking this data from the FMC will have to pay the fee, directly or indirectly. In effect, the FMC would collect a royalty from all uses of data originating in its ATFI data base.

I chair the Technology and the Law Subcommittee which has jurisdiction over the Freedom of Information Act. I am concerned about the implications of this royalty fee on Government information. A reasonable fee to recover costs of disseminating information is one thing, but taxpayers should not be charged twice for information created by Federal agencies at taxpayer expense.

These types of fees place a heavy burden on the public's right to know. While I strongly support the repeal of the recreational boat user fee, I also agree with a recent editorial which concludes that "balancing the budget by selling information to the people who by right already own it would be a travesty."

Congress should not raise revenue at the expense of the public's right of access to Government information.

This tariff data use fee originated in the House last year and has been considered only in the context of financing the repeal of the boat user fee. While its original scope was quite broad, the proposal has been modified to ensure that it would sunset after fiscal year 1995 when the boat user fee is scheduled to end. Once the data use fees no longer serve the purpose of offsetting the repeal, the FMC would not be permitted to charge fees in excess of the direct costs incurred in operating and administrating the ATFI system. Furthermore, recovery of these costs could not be derived from fees on secondary uses of the tariff information.

The fee policies that would be in place after fiscal year 1995 are nearly identical to those Congress has approved for other agency data bases. For example, in legislation authorizing the Securities and Exchange Commission's data base of securities information known as EDGAR, Congress prohibited imposition of additional fees or royalties on the use, resale, or redissemination of information obtained from the EDGAR data base.

I view the proposal contained in this legislation as a one-time exception to the clear policy Congress has estab-

lished in the past. Today's proposal is unique and should not be considered a precedent for raising revenue in the future.

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

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

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

BOATS, BUDGETS, AND A BAD IDEA

Two years ago, in a scramble to address the budget deficit, Congress enacted a tax on recreational boats on the theory that boat owners receive a lot of service from the Coast Guard and should pay for part of it. The tax was so unpopular many members of Congress decided to repeal it. The problem is that if they eliminate the tax they must replace the revenue from some other source. The proposed solution is a tax on access to certain public information stored in government computers. Specifically, anyone wanting information on the freight rates charged by shipping companies would have to pay 46 cents a minute to retrieve the information. Reuse of the material by the initial retriever or by someone who gets it from him would be subject to the same charge. Both houses of Congress have passed legislation to impose this access fee, but a conference will be necessary to resolve differences between the two versions. It would be far better to sink the idea instead.

The proposal is both a budget fraud and a threat to public access to government information. The boat tax is expected to bring in $718 million over five years. The Congressional Budget Office estimated an alternative tax on information would generate $750 million over the same time. Yet private companies that now provide this data electronically to 90 percent of those who seek it in that form say this is a $6 million-a-year market: The revenue assumptions are way off the mark.

More important is the terrible precedent such a tax would set. The government now imposes fees for documents it collects or creates, but only to cover the costs of duplication and distribution. Even material published by the Government Printing Office is sold at cost plus 50 percent. Under this proposal, however, the fee for obtaining Federal Maritime Administration data would be 10 times the cost of producing it. This is not a charge for documents in the normal sense, it is a pure and simple revenue raiser.

Twenty-nine organizations—including some of which The Washington Post Co. is a member—concerned about the free flow of information and access to government documents strongly oppose this measure. So does the Bush administration. This bill would affect only one industry and one kind of material that is not in great demand outside that industry. But if it is enacted and brings in anywhere near as much money as its supporters suggest, what would then stop the government from rationing access to information by price? If the cost of obtaining Census data, budget information or the Congressional Record were to increase tenfold, how many citizens would be able to pay? Material produced by the government belongs to the public. Nominal fees to cover costs are perfectly all right. But balancing the budget by selling information to the people who by right already own it would be a travesty.

[From the Washington Post, June 25, 1992]

GOVERNMENT INFORMATION AS REVENUE SOURCE

(By Brent Mitchell)

Access to government documents is an issue that draws a specialized crowd on Capitol Hill. For a decade, opposing camps of librarians, academics and information companies have debated philosophy while trying to influence the distribution of thousands of computer files and databases the federal government creates every year.

But this year their narrow world was swept up into the bigger issue of taxes and the deficit. As part of Congress's never-ending search for revenue, the House Merchant Marine and Fisheries Committee earlier this month unanimously approved a new $21-an-hour charge for use of a new maritime computer database of information currently available, only on paper, for free.

The fees for using the Automated Tariff Filing and Information System (ATFI), a collection of shipping rates and data essential to U.S. commercial shippers, are designed to replace an estimated $718 million the government expects would be collected over the next five years from taxes on pleasure boats. That tax would be repealed.

The pleasure boat fee, enacted last year at a rate of $25 to $100 per boat, was widely unpopular. And under the rules of last year's budget agreement, no revenue source can be canceled without another created in its place.

Thus the proposed new charge—or "user fee," in the current anti-tax vernacular—for information. In response, industry and public interest groups have set aside some of their traditional differences to fight what they say is a new government royalty that will restrict access to public information.

The American Library Association sees free access to government-produced information as a basic democratic right—the data citizens need to participate in their nation's decisions. The Information Industry Association sees it as the raw material for the for-profit information industry.

But both are afraid the committee proposal will create a precedent in using provision of public information as a source of government revenue.

"If congressional committees are searching for funds to supplant or replace pet peeves that they have, then information is going to be a really easy target," said Ronald L. Plesser, who represents the Information Industry Association. "If this is successful, it will fundamentally change the nature of government information."

User fees—charges that theoretically cover government expenses—are commonly attached to documents or databases. But Plesser and others object to the 35 cents per minute of computer time the committee proposes to charge, because charges would not be limited to the primary user of the information.

Shippers currently receive such information by buying it from the information industry, which takes the on-paper data provided free by the government, processes it and distributes it in database form. The information companies also collect tariff information from the shippers and file it with the government for a fee.

Under the proposed system, anyone could have access to the computerized material by paying the fee. But any secondary user of that information—someone who gets access to the data through a private company or library—would also have to pay the government 35 cents per minute, and critics say that amounts to copyrighting the information.

"The long-term ramification is that you could have to pay for a wide variety of government information," said Patricia Glass Schuman, president-elect of the American Library Association. "It means that unless people can afford to pay, they don't have the right to know. . . . We believe that is the basic democratic principle."

George Pence, minority staff director for the Merchant Marine Committee, said that committee had no special interest in taxing the tariff database, but felt it was the best way to replace the money that would be lost from pleasure boaters.

The committee sees the ATFI charges as similar to fees charged for access to information like the census. The bill, proposed by Rep. Robert W. Davis (R-Mich.), opens access to any computer owner, and Pence said the database will still be available free, on paper, in the Federal Maritime Commission office.

"You usually think of copyrighted information as [what] a person gets paid for . . . but the copyright also gives you control over who can print it and who they can sell it to," Pence said. "None of that transfers with this [bill]. This specifically says that anyone can get this without limitation," as long as the government collects its fee.

Michael G. Sciulla, vice president of BOAT/US, an Alexandria-based organization of boaters, said the tariff database charge is justifiable because people who pay will receive a service in return. He said he told his 390,000 members to write Congress because the boat tax, officially a Coast Guard user fee when it was created by the House-Senate conference committee on the budget last year, was levied on 4.1 million boaters when only 49,000 annually need assistance.

The Davis bill will be considered next by the full House unless another committee asks to examine it. Plesser, of the Information Industry Association, said the Davis proposal may violate the Copyright Act and said that even with higher rates, the private companies that now distribute tariff information would not raise the $750 million in five years that the Congressional Budget Office projects.

Budget Committee Chairman Leon E. Panetta (D-Calif.), who had opposed the bill because its revenue would not fully replace the boat tax for two years, has accepted a subsequent committee proposal to delay repeal of the boat fees until 1993, according to his spokesman.

The American Library Association has led a coalition trying to give citizens greater access to all government computer documents, and Schuman said she supports the portion of the Davis bill that allows open access to the database.

Taxpayer Assets Project Director James P. Love testified in April against the constraints on ATFI. "What we are talking about is essentially the product that is at the bottom of the food chain." Love said last week. "These are just the facts and documents that everyone needs to analyze government policies and practices."

DELETION OF PROVISIONS AFFECTING THE COASTAL BARRIERS RESOURCES ACT

Mr. CHAFEE. Mr. President, I would like to seek a point of clarification regarding H.R. 2152 from Senator PACK-

WOOD. My understanding is that title VII of H.R. 2152, a bill to enhance the effectiveness of the United Nations international driftnet fishery conservation program, as passed by the House, amended the Coastal Barriers Resources Act [CBRA] which is within the exclusive jurisdiction of the Committee on Environment and Public Works. I also understand that the Committee on Commerce has deleted title VII and that H.R. 2152 as amended by the Commerce Committee and under consideration by the Senate contains no amendments to CBRA. Is this correct?

Mr. PACKWOOD. That is correct, and I would agree to oppose any amendments to CBRA on H.R. 2152, unless they are agreed to by the Environment and Public Works Committee.

Mr. CHAFEE. I thank the Senator and have no further questions.

The PRESIDING OFFICER. The question is on agreeing to the motion.

The motion was agreed to.

Mr. MITCHELL. Mr. President, I move to reconsider the vote.

Mr. PACKWOOD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION AUTHORIZATION ACT

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 284, S. 1405, the NOAA authorization bill.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

A bill (S. 1405) to authorize appropriations for certain programs of the National Oceanic and Atmospheric Administration, 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 Commerce, Science, and Transportation, with an amendment to strike all after the enacting clause and inserting in lieu thereof the following:

SHORT TITLE

SECTION 1. This Act may be cited as the "National Oceanic and Atmospheric Administration Authorization Act of 1991".

DEFINITIONS

SEC. 2. For the purposes of this Act, the term—

(1) "Act of 1890" means the Act entitled "An Act to increase the efficiency and reduce the expenses of the Signal Corps of the Army, and to transfer the Weather Bureau to the Department of Agriculture", approved October 1, 1890 (26 Stat. 653); and

(2) "Act of 1947" means the Act entitled "An Act to define the functions and duties of the Coast and Geodetic Survey, and for other purposes", approved August 6, 1947 (33 U.S.C. 883a et seq.).

TITLE I—NOAA ATMOSPHERIC AND SATELLITE PROGRAMS

NATIONAL WEATHER SERVICE OPERATIONS AND RESEARCH

SEC. 101. There are authorized to be appropriated to the Secretary of Commerce, to enable the National Oceanic and Atmospheric Administration to carry out the operations and research activities of the National Weather Service under law, $313,034,000 for fiscal year 1992. Moneys appropriated pursuant to this authorization shall be used to fund those activities relating to National Weather Service operations and research specified by the Act of 1890, the Act of 1947, and any other law involving such activities. Such activities include meteorological, hydrological, and oceanographic public warnings and forecasts, as well as applied research in support of such warnings and forecasts.

PUBLIC WARNING AND FORECAST SYSTEMS

SEC. 102. (a) AUTHORIZATION.—There are authorized to be appropriated to the Secretary of Commerce, to enable the National Oceanic and Atmospheric Administration to improve its public warning and forecast systems under the law, $209,787,000 for fiscal year 1992. Moneys appropriated pursuant to this authorization shall be used to fund those activities relating to public warning and forecast systems specified by the Act of 1890, the Act of 1947, and any other law involving such activities. Such activities include the development, acquisition, and implementation of major public warning and forecast systems.

(b) CONTINGENT LIABILITY.—In procuring information processing and telecommunications services of the National Oceanic and Atmospheric Administration for the Advanced Weather Interactive Processing System, the Secretary of Commerce may provide, in the contract or contracts for such services, for the payment for contingent liability of the Federal Government which may accrue in the event that the Government decides to terminate the contract before the expiration of the multiyear contract period. Such contract or contracts for such services shall limit the payments which the Federal Government is allowed to make under such contract or contracts to amounts provided in advance in appropriations Acts.

CLIMATE AND AIR QUALITY RESEARCH

SEC. 103. (a) IN GENERAL.—There are authorized to be appropriated to the Secretary of Commerce, to enable the National Oceanic and Atmospheric Administration to carry out its climate and air quality research activities under law, $111,801,000 for fiscal year 1992. Moneys appropriated pursuant to this authorization shall be used to fund those activities relating to climate and air quality research specified by the Act of 1890, the Act of 1947, and any other law involving such activities. Such activities include the interannual and seasonal climate research, long-term climate and air quality research, and the National Climate Program.

(b) CLIMATE AND GLOBAL CHANGE.—Of the sums authorized under subsection (a), $78,000,000 for fiscal year 1992 are authorized to be appropriated for the purposes of studying climate and global change. Such program shall augment and integrate existing programs of the National Oceanic and Atmospheric Administration and shall include global observations, monitoring, and data and information management relating to the study of changes in the Earth's climatic system, fundamental research on critical oceanic and atmospheric processes, and climate prediction and diagnostics.

ATMOSPHERIC RESEARCH

SEC. 104. There are authorized to be appropriated to the Secretary of Commerce, to enable the National Oceanic and Atmospheric Administration to carry out its atmospheric research activities under law, $47,399,000 for fiscal year 1992. Moneys appropriated pursuant to this authorization shall be used to fund those activities relating to atmospheric research specified by the Act of 1890 and by any other law involving such activities. Such activities include research for developing improved observation and prediction capabilities for atmospheric processes, as well as solar-terrestrial services and research.

SATELLITE OBSERVING SYSTEMS

SEC. 105. (a) IN GENERAL.—(1) There are authorized to be appropriated to the Secretary of Commerce, to enable the National Oceanic and Atmospheric Administration to carry out its satellite observing systems activities under law, $373,907,000 for fiscal year 1992. Moneys appropriated pursuant to this authorization shall be used to fund those activities relating to data and information services specified by the Act of 1890 and by any other law involving such activities. Such activities include spacecraft procurement, launch, and associated ground station system changes involving polar orbiting and geostationary environmental satellites and land remote-sensing satellites, as well as the operation of such satellites.

(2) Of the sum authorized under paragraph (1), $2,300,000 in fiscal year 1992 are authorized for the administration by the National Oceanic and Atmospheric Administration of the ground stations for the Search and Rescue Satellite Aided Tracking system. Such administration shall be carried out in consultation with the Department of Transportation and the Department of Defense.

(b) EMERGENCY CONTINGENCY FUND.—There are authorized to be appropriated to the Secretary of Commerce, $110,000,000 for fiscal year 1992, to be deposited in an Emergency Weather Satellite Contingency Fund. Such Fund shall be available subject to the restrictions of appropriations Acts, without fiscal year limitation, only to the Secretary for the purpose of enabling the National Oceanic and Atmospheric Administration to maintain geostationary environmental satellite coverage for monitoring and prediction of hurricanes and severe storms, including but not limited to the procurement of gap filler satellites, launch vehicles, and payments to foreign governments.

(c) STRATEGIC PLAN.—(1) The Secretary of Commerce and the Administrator of the National Aeronautics and Space Administration shall jointly develop and, not less than 120 days after the date of enactment of this Act, submit to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Science, and Space, and Technology of the House of Representatives a strategic plan for development, procurement, and operation of the environmental satellite program of the Department of Commerce.

(2) The objectives of the strategic plan shall be—

(A) to ensure continuous and adequate satellite coverage; and

(B) to require direct Federal fiscal and administrative accountability in all aspects of such environmental satellite program.

(3) The strategic plan shall—

(A) delineate the management duties and functions of each Federal department or agency involved in such satellite program;

(B) establish funding responsibilities for each Federal department or agency in a manner which reflects their respective management duties and functions;

(C) set forth procedures to be followed in the development, procurement, and operations of environmental satellites in such program;

(D) minimize the potential for developmental and procurement problems, and for cost overruns;

(E) provide for effective interagency coordination; and

(F) specify recommendations for legislative and administrative actions necessary to accomplish the objectives described in paragraph (2).

DATA AND INFORMATION SYSTEMS

SEC. 106. There are authorized to be appropriated to the Secretary of Commerce, to enable the National Oceanic and Atmospheric Administration to carry out its data and information services activities under law, $35,317,000 for fiscal year 1992. Moneys appropriated pursuant to this authorization shall be used to fund those activities relating to data and information services specified by the Act of 1890 and by any other law involving such activities. Such activities include climate data services, ocean data services, geophysical data series, and environmental assessment and information services.

HURRICANE RECONNAISSANCE PROGRAM

SEC. 107. (a) ESTABLISHMENT OF PROGRAM.—The Secretary of Defense and the Secretary of Commerce shall establish a 5-year joint program for collecting operational and reconnaissance data, conducting research, and analyzing data on tropical cyclones to assist the forecast and warning program and increase the understanding of the causes and behavior of tropical cyclones.

(b) RESPONSIBILITIES.—(1) The Secretary of Defense shall have the responsibility for maintaining, flying, and funding tropical cyclone reconnaissance aircraft to accomplish the program established under this section and to transfer the data to the Secretary of Commerce, unless a joint agreement is reached, with the approval of both the Secretary of Defense and the Secretary of Commerce, for the transfer of such responsibility (including full funding) to an appropriate Federal agency or department which may include the Coast Guard.

(2) The Secretary of Commerce shall have the responsibility to provide funding for data gathering and research by remote sensing, ground sensing, research aircraft, and other technologies necessary to accomplish the program established under this section.

(c) MANAGEMENT PLANS.—(1) The Secretary of Defense and the Secretary of Commerce shall jointly develop and, within 120 days after the date of enactment of this Act, submit to the Congress a management plan for the program established under this section, which shall include organizational structure, goals, major tasks, and funding profiles for the 5-year duration of the program.

(2) The Secretary of Defense and the Secretary of Commerce shall jointly develop and, within 4 years after the date of enactment of this Act, submit to the Congress a management plan providing for continued tropical cyclone surveillance and reconnaissance which will adequately protect the citizens of the coastal areas of the United States.

(3) The management plans and programs required by this section shall in every sense provide for at least the same degree and quality of protection (such as early warning capability and accuracy of fixing a storm's location) as currently exists with a combination of satellite technology and manned reconnaissance flights. Additionally, such plans and programs shall in no way allow any reduction in the level, quality, timeliness, sustainability (in terms of quantity and quality of aircraft, flying hours, crews, and support personnel), or area served (including the State of Hawaii) of both the existing principal and back-up tropical cyclone reconnaissance and tracking systems.

UNITED STATES WEATHER RESEARCH PROGRAM

SEC. 108. (a) ESTABLISHMENT.—The Secretary of Commerce, in cooperation with the Committee on Earth and Environmental Sciences, shall establish a United States Weather Research Program to—

(1) increase benefits to the Nation from the substantial investment in modernizing the public weather warning and forecast system in the United States;

(2) improve local and regional weather forecasts and warnings;

(3) address critical weather-related scientific issues; and

(4) coordinate governmental, university, and private-sector efforts.

(b) IMPLEMENTATION PLAN.—Not later than 90 days after the date of enactment of this Act, the Secretary of Commerce, in cooperation with the Committee on Earth and Environmental Sciences, shall prepare and submit to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Science, Space, and Technology of the House of Representatives a plan for implementation of the United States Weather Research Program which shall—

(1) establish, for the 10-year period beginning in the year the plan is submitted, the goals and priorities for Federal weather research which most effectively advance the scientific understanding of weather processes and provide information to improve weather warning and forecast systems in the United States;

(2) describe specific activities, including research activities, data collection and data analysis requirements, predictive modeling, participation in international research efforts, demonstration of potential operational forecast applications, and education and training required to achieve such goals and priorities; and

(3) set forth the role of each Federal agency and department to be involved in the United States Weather Research Program, identifying and addressing, as appropriate, relevant programs and activities of the Federal agencies and departments that would contribute to such Program.

WEATHER SERVICE OFFICE IN RENO, NEVADA

SEC. 109. (a) FACILITY ACQUISITION.—The Administrator of the National Oceanic and Atmospheric Administration is authorized—

(1) to construct, on approximately 10 acres of land to be leased from the University of Nevada System, Desert Research Institute, or

(2) in the alternative, to acquire by lease construction on such land, with a lease of up to 30 years,

a Weather Forecast Office, upper air facility, regional climate center, and associated instruments and site improvements as part of the implementation of the Next Generation Weather Radar and National Weather Service Modernization Program for the Reno, Nevada area.

(b) REIMBURSEMENT AUTHORITY.—The Administrator is authorized to reimburse the Desert Research Institute for the cost of providing utilities and access to the site.

(c) OPERATIONS.—The Administrator is authorized to carry out the operations of the National Oceanic and Atmospheric Administration in such facility.

TRANSFER OF DATA ARCHIVING RESPONSIBILITY

SEC. 110. (a) FINDINGS.—The Congress finds that—

(1) section 602 of the Land Remote-Sensing Commercialization Act of 1984 (15 U.S.C. 4272) directs the Secretary of Commerce to provide for the archiving of land remote-sensing data for historical, scientific, and technical purposes, including long-term global environmental monitoring;

(2) the Secretary of Commerce currently provides for the archiving of Landsat data at the Department of the Interior's EROS Data Center, which is consistent with the requirement of section 602(g) of such Act (15 U.S.C. 4272(g)) to use existing Federal Government facilities to the extent practicable in carrying out this archiving responsibility;

(3) the Landsat data collected since 1972 are an important global data set for monitoring and assessing land resources and global change;

(4) the Secretary of the Interior maintains archives of aerial photography, digital cartographic data, and other Earth science data at the EROS Data Center that also are important data sets for monitoring and assessing land resources and global change;

(5) it is appropriate to transfer authority to the Secretary of the Interior for the archiving of land remote-sensing data; and

(6) the Secretary of the Interior should explore ways to facilitate the use of archived data for research purposes consistent with other provisions of the Land Remote-Sensing Commercialization Act of 1984.

(b) PROVISION OF UNENHANCED DATA.—Section 402(b)(4) of the Land Remote-Sensing Commercialization Act of 1984 (15 U.S.C. 4242(b)(4)) is amended by inserting "of the Interior" immediately after "Secretary".

(c) ARCHIVING OF DATA.—Section 602 of the Land Remote-Sensing Commercialization Act of 1984 (15 U.S.C. 4272) is amended—

(1) in subsections (b), (c), (d), (f), and (g), by inserting "of the Interior" immediately after "Secretary" each place it appears; and

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

"(h) In carrying out the functions of this section, the Secretary of the Interior shall consult with the Secretary to ensure that archiving activities are consistent with the terms and conditions of any contract or agreement entered into under title II, III, or V of this Act and with any license issued under title IV of this Act.".

CLOSURE, CONSOLIDATION, AUTOMATION, OR RELOCATION OF FIELD OFFICES

SEC. 111. (a) PROHIBITION.—The Secretary of Commerce shall not close, consolidate, automate, or relocate, before January 1, 1996, any National Weather Service Office or National Weather Service Forecast Office, pursuant to weather service modernization.

(a) CERTIFICATION REQUIREMENT.—Section 408(b) of the National Aeronautics and Space Administration Authorization Act, Fiscal Year 1989 (15 U.S.C. 313 note), is amended to read as follows:

"(b)(1) The Secretary may not close, consolidate, automate, or relocate any such Office unless—

"(A) the Secretary has certified to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Science, Space, and Technology of the House of Representatives that such action will not result in any degradation of weather services provided to the affected area; and

"(B) at least one year has elapsed following the date of such certification.

"(2) The certification referred to in paragraph (1) shall be based upon an independent review by the National Academy of Sciences which shall include—

"(A) a detailed comparison of the services provided to the affected area and the services to be provided after such action;

"(B) any recent or expected modernization of National Weather Service operations which will enhance services in the affected area;

"(C) an identification of any areas within any State which would be adversely affected by the loss of manned weather stations;

"(D) an identification of any area within any State which would not receive complete and total coverage (at 10,000 feet) by the NEXRAD doppler network; and

"(E) a statement of all evidence, based upon operational demonstration of modernized National Weather Service operations, which was considered in reaching the conclusion that no degradation in services will result from such action.".

TITLE II—NOAA OCEAN AND COASTAL PROGRAMS

NATIONAL OCEAN SERVICE

SEC. 201. (a) MAPPING, CHARTING, AND GEODESY.—There are authorized to be appropriated to the Secretary of Commerce, to enable the National Oceanic and Atmospheric Administration to carry out mapping, charting, and geodesy activities (including geodetic data collection and analysis) under the Act of 1947 and any other law involving those activities, $51,087,000 for fiscal year 1992.

(b) OBSERVATION AND ASSESSMENT.—There are authorized to be appropriated to the Secretary of Commerce, to enable the National Oceanic and Atmospheric Administration to carry out observation and assessment activities—

(1) under the Act of 1947 and any other law involving those activities, $57,273,000 for fiscal year 1992;

(2) under the National Ocean Pollution Planning Act of 1978 (33 U.S.C. 1701 et seq.), $4,500,000 for fiscal year 1992; and

(3) under title II of the Marine Protection, Research, and Sanctuaries Act of 1972 (33 U.S.C. 1441 et seq.), $11,000,000 for fiscal year 1992.

(c) COASTAL OCEAN PROGRAM.—Of the sums authorized under subsection (b)(1), $17,352,000 for fiscal year 1992 are authorized to be appropriated for the purposes of conducting a Coastal Ocean Program. Such program shall augment and integrate existing programs of the National Oceanic and Atmospheric Administration and shall include efforts to improve predictions of fish stocks to better conserve and manage living marine resources, to improve predictions of coastal ocean pollution to help correct and prevent degradation, and to improve predictions of coastal hazards to protect human life and personal property.

(d) OCEAN MANAGEMENT.—There are authorized to be appropriated to the Secretary of Commerce, to enable the National Oceanic and Atmospheric Administration to carry out ocean management activities, $1,678,000 for fiscal year 1992.

OCEAN AND GREAT LAKES RESEARCH

SEC. 202. There are authorized to be appropriated to the Secretary of Commerce, to enable the National Oceanic and Atmospheric Administration to carry out ocean and Great Lakes research activities under the Act of 1947, the Act of 1890, and any other law involving those activities, $32,171,000 for fiscal year 1992.

TITLE III—NOAA MARINE FISHERY PROGRAMS

AUTHORIZATION OF APPROPRIATIONS

SEC. 301. The National Oceanic and Atmospheric Administration Marine Fisheries Program Authorization Act (Public Law 98–210; 97 Stat. 1409) is amended—

(1) in section 2(a) by striking "$26,500,000" and all that follows through "fiscal year 1989" and inserting in lieu thereof "$52,843,000 for fiscal year 1992";

(2) in section 3(a) by striking "$35,000,000" the first time it appears and all that follows through "fiscal year 1989" and inserting in lieu thereof "$27,869,000 for fiscal year 1992"; and

(3) in section 4(a) by striking "$10,000,000" and all that follows through "fiscal year 1989" and inserting in lieu thereof "$15,585,000 for fiscal year 1992".

DEVELOPMENT OF DOLPHIN-SAFE METHODS OF TUNA FISHING

SEC. 302. Section 2 of the National Oceanic and Atmospheric Administration Marine Fisheries Program Authorization Act (Public Law 98–210; 97 Stat. 1409) is amended by adding at the end the following new subsection:

"(d) Of the sums authorized under subsection (a) of this section, $1,000,000 for fiscal year 1992 are authorized to be appropriated for the purpose of developing dolphin-safe methods of locating and catching yellowfin tuna. Such authorization shall be in addition to moneys authorized under section 7 of the Act entitled 'An Act to improve the operation of the Marine Mammal Protection Act of 1972, and for other purposes', approved October 9, 1981 (16 U.S.C. 1384). Within six months after the date of enactment of this subsection, the Secretary, in cooperation with the Inter-American Tropical Tuna Commission and after consultation with interested persons, shall publish a program plan for public comment that shall provide for—

"(1) cooperative research to improve understanding of the behavioral association of dolphins and yellowfin tuna in the eastern tropical Pacific Ocean;

"(2) development, testing, and implementation of new methods of locating and catching yellowfin tuna without the incidental taking of dolphins; and

"(3) appropriate measures to ensure program participation and sharing of associated costs by each foreign government that conducts, or authorizes its nationals to conduct, yellowfin tuna fishing in the eastern tropical Pacific Ocean.".

FISHERIES RESEARCH

SEC. 303. Section 304(e) of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1854(e)) is amended by redesignating paragraphs (1), (2), and (3), and any reference thereto, as paragraphs (2), (3), and (4), respectively, and by inserting immediately after "FISHERIES RESEARCH.—" the following: "(1) The Secretary shall initiate and maintain, in cooperation with the Councils, a comprehensive program of fishery research to carry out and further the purposes, policy, and provisions of this Act. Such program shall be designed to acquire knowledge and information, including statistics, on fishery conservation and management and on the economics of the fisheries.".

FISHERY FACILITIES

SEC. 304. Section 1101(k) of the Merchant Marine Act, 1936 (46 App. U.S.C. 1271(k)), is amended—

(1) by striking "or" at the end of paragraph (1);

(2) by adding "or" at the end of paragraph (2); and

(3) by inserting immediately after paragraph (2) the following new paragraph:

"(3) for aquaculture, including operations on land or elsewhere—

"(A) any structure or appurtenance thereto designed for aquaculture;

"(B) the land necessary for any such structure or appurtenance described in subparagraph (A);

"(C) equipment which is for use in connection with any such structure or appurtenance and which is necessary for the performance of any function referred to in subparagraph (A); and

"(D) any vessel built in the United States used for, equipped to be used for, or of a type which is normally used for aquaculture;".

STUDY OF JOINT ENFORCEMENT OF FISHERIES REGULATIONS

SEC. 305. Not later than 4 months after the date of enactment of this Act, the Secretary of Transportation and the Secretary of Commerce shall submit to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Merchant Marine and Fisheries of the House of Representatives a joint report describing methods by which Coast Guard enforcement efforts in the western Pacific Ocean under the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1801 et seq.) may be enhanced and coordinated with those of the National Oceanic and Atmospheric Administration. The report shall—

(1) evaluate the ability of the Coast Guard to address key enforcement problems, which the Secretary of Commerce shall identify, for the western Pacific Ocean, particularly in the exclusive economic zone adjacent to the Hawaiian Islands, the Northern Mariana Islands, and the territories and possessions of the United States;

(2) propose procedures by which the Coast Guard and the National Oceanic and Atmospheric Administration may coordinate their efforts in order to improve and maximize effective enforcement of fisheries regulations, including but not limited to the chartering of light aircraft for fisheries surveillance and enforcement; and

(3) recommend appropriate levels of Coast Guard participation in such efforts.

CHESAPEAKE BAY ESTUARINE RESOURCES OFFICE

SEC. 306. (a) ESTABLISHMENT.—(1) The Administrator of the National Oceanic and Atmospheric Administration shall establish, within the Administration, an office to be known as the Chesapeake Bay Estuarine Resources Office (hereinafter referred to as the "Office").

(2) The Office shall be headed by a Director who shall be appointed by the Administrator, in consultation with the Chesapeake Bay Executive Council. Any individual appointed as Director shall have knowledge and experience in research or resource management efforts in the Chesapeake Bay.

(3) The Director may appoint such additional personnel for the Office as the Director determines necessary to carry out this section.

(b) FUNCTIONS.—The Office, in consultation with the Chesapeake Bay Executive Council, shall—

(1) provide technical assistance to the Administrator, to other Federal departments and agencies, and to State and local government agencies in—

(A) assessing the processes that shape the Chesapeake Bay system and affect its living resources;

(B) identifying technical and management alternatives for the restoration and protection of living resources and the habitats they depend upon; and

(C) monitoring the implementation and effectiveness of management plans;

(2) develop and implement a strategy for the National Oceanic and Atmospheric Administration that integrates the science, research, monitoring, data collection, regulatory, and management responsibilities of the Administrator in such a manner as to assist the cooperative, intergovernmental Chesapeake Bay Program to meet the commitments of the Chesapeake Bay Agreement;

(3) coordinate the programs and activities of the various organizations within the National Oceanic and Atmospheric Administration and the Chesapeake Bay Regional Sea Grant Programs (including programs and activities in coastal and estuarine research, monitoring, and assessment; fisheries research and stock assessments; data management; remote sensing; coastal management; and habitat conservation);

(4) coordinate the activities of the National Oceanic and Atmospheric Administration with the activities of the Environmental Protection Agency and other Federal, State, and local agencies;

(5) establish an effective mechanism which shall ensure that projects have undergone appropriate peer review and provide other appropriate means to determine that projects have acceptable scientific and technical merit for the purpose of achieving maximum utilization of available funds and resources to benefit the Chesapeake Bay area;

(6) remain cognizant of ongoing research, monitoring, and management projects and assist in the dissemination of the results and findings of those projects; and

(7) submit a biennial report to the Congress and the Administrator with respect to the activi-

ties of the Office and on the progress made in protecting and restoring the living resources and habitat of the Chesapeake Bay.

(c) BUDGET LINE ITEM.—The Secretary of Commerce shall submit, for inclusion in the President's annual budget to the Congress, as a separate budget line item, a funding request from the Administrator for the Office.

(d) AUTHORIZATION OF APPROPRIATIONS.—Section 2 of the National Oceanic and Atmospheric Administration Marine Fisheries Program Authorization Act (Public Law 98–210; 97 Stat. 1409), as amended by section 302 of this Act, is further amended by adding at the end the following new subsection:

"(e) Of the sums authorized under subsection (a) of this section, no more than $2,500,000 are authorized to be appropriated for fiscal year 1992 to enable the National Oceanic and Atmospheric Administration to establish the Chesapeake Bay Estuarine Resources Office under section 306 of the National Oceanic and Atmospheric Administration Authorization Act of 1991. No more than 20 percent of the amount appropriated under the authorization in this subsection shall be used for administrative purposes.".

TITLE IV—MISCELLANEOUS PROVISIONS

PROGRAM SUPPORT

SEC. 401. (a) EXECUTIVE DIRECTION AND ADMINISTRATIVE ACTIVITIES.—There are authorized to be appropriated to the Secretary of Commerce, to enable the National Oceanic and Atmospheric Administration to carry out executive direction and administrative activities (including management, administrative support, provision of retired pay of National Oceanic and Atmospheric Administration commissioned officers, and policy development) under the Act entitled "An Act to clarify the status and benefits of commissioned officers of the National Oceanic and Atmospheric Administration, and for other purposes", approved December 31, 1970 (33 U.S.C. 857–1 et seq.), and any other law involving those activities, $72,105,000 for fiscal year 1992.

(b) ACQUISITION, CONSTRUCTION, MAINTENANCE, AND OPERATION OF FACILITIES.—(1) There are authorized to be appropriated to the Secretary of Commerce, for acquisition, construction, maintenance, and operation of facilities of the National Oceanic and Atmospheric Administration under any law involving those activities, $12,753,000 for fiscal year 1992.

(2) The Secretary of Commerce shall acquire space from the Administrator of General Services in the area of Newport News-Norfolk, Virginia, for use for consolidating and meeting the long-term space needs of the National Oceanic and Atmospheric Administration in a cost effective manner. In order to acquire this space, the Administrator of General Services may, with the Secretary's consent, exchange real property owned by the Department of Commerce for other real property, including improvements to that property, in that area.

(c) MARINE SERVICES.—(1) There are authorized to be appropriated to the Secretary of Commerce, to enable the National Oceanic and Atmospheric Administration to carry out marine services activities (including ship operations, maintenance, and support) under the Act of 1947 and any other law involving those activities, $63,573,000 for fiscal year 1992.

(2) There are authorized to be appropriated to the Secretary of Commerce, to enable the National Oceanic and Atmospheric Administration to acquire a multibeam sonar mapper, $1,500,000 for fiscal year 1992.

(3)(A) In addition to sums authorized in paragraphs (1) and (2), there are authorized to be appropriated to the Secretary of Commerce $800,000 for fiscal year 1992 for the reactivation and operation of the research vessel Albatross IV.

(B) If on the date of enactment of this Act the research vessel Albatross IV is not in active service, the Secretary of Commerce, subject to the availability of appropriations under this paragraph, shall reactivate that vessel.

(4) Unless necessary for safety reasons, the Secretary of Commerce shall not deactivate any research vessel of the National Oceanic and Atmospheric Administration, including the Albatross IV (if active), until an equivalent replacement vessel is operational.

(5)(A)(i) Except as provided in clause (ii), no vessel to be constructed for the National Oceanic and Atmospheric Administration, and no major component of the hull or superstructure of such a vessel, may be constructed in a foreign shipyard.

(ii) The President may authorize exceptions to the prohibition in clause (i) if the President determines that it is in the national security interest of the United States to do so. The President shall transmit notice to the Congress of that determination, and no contract may be made pursuant to the exception authorized until the end of the 30-day period beginning on the date such notice is received by the Congress.

(B)(i) A vessel of the National Oceanic and Atmospheric Administration, the homeport of which is in the United States, may not be overhauled, repaired, or maintained in a shipyard outside the United States.

(ii) Clause (i) does not apply in the case of voyage repairs.

(6) The Secretary of Commerce shall consult with the Oceanographer of the Navy regarding appropriate measures that should be taken to ensure that vessels of the National Oceanic and Atmospheric Administration are interoperable with vessels of the Department of the Navy, including with respect to operation, maintenance, and repair of those vessels.

(d) NOAA FLEET MODERNIZATION.—(1) In addition to amounts authorized by subsection (c), there are authorized to be appropriated to the Secretary of Commerce for fiscal year 1992 modernization of the National Oceanic and Atmospheric Administration fleet $50,000,000 for maintenance, replacement, construction, and instrument upgrades of oceanographic research vessels.

(2) Not later than October 1, 1991, the Secretary of Commerce shall submit to the Congress a detailed fleet replacement and modernization plan, including a schedule of anticipated modernizations, acquisitions of vessels, acquisitions of scientific instruments, hiring of additional personnel, and annual funding requirements for carrying out the plan.

(3)(A) Subject to subparagraphs (B), (C), and (D), and notwithstanding section 1341 of title 31, United States Code, and section 3732 of the Revised Statutes of the United States (41 U.S.C. 11), the Secretary of Commerce may acquire vessels of the National Oceanic and Atmospheric Administration fleet by purchase, lease, lease-purchase, or otherwise, under one or more multiyear contracts.

(B) The Secretary of Commerce may not enter into any contract pursuant to this subsection before the date of the submission to the Congress of a plan pursuant to paragraph (2).

(C) The Secretary of Commerce may not enter into a contract pursuant to this paragraph unless the Secretary finds with respect to that contract that—

(i) there is a reasonable expectation that throughout the contemplated contract period the Secretary will request from the Congress funding for the contract at the level required to avoid contract termination; and

(ii) the use of the contract will promote the best interests of the United States by encouraging competition and promoting economic efficiency in the operation of the National Oceanic and Atmospheric Administration fleet.

(D) The Secretary of Commerce may not enter into a contract pursuant to this paragraph unless the contract includes—

(i) a provision under which the obligation of the United States to make payments under the contract for any fiscal year is subject to the availability of appropriations provided in advance for those payments;

(ii) a provision which specifies the term of effectiveness of the contract;

(iii) appropriate provisions under which in case of any termination of the contract before the end of the term specified pursuant to clause (ii), the United States shall only be liable for the lesser of—

(I) an amount specified in the contract for such a termination; or

(II) amounts which were appropriated, before the date of the termination, for the performance of the contract or for procurement of the type of acquisition covered by the contract and which are unobligated on the date of the termination.

(e) AIRCRAFT SERVICES.—There are authorized to be appropriated to the Secretary of Commerce, to enable the National Oceanic and Atmospheric Administration to carry out aircraft services activities (including aircraft operations, maintenance, and support) under the Act of 1890 and any other law involving those activities, $8,900,000 for fiscal year 1992.

NOTICE OF REPROGRAMMING

SEC. 402. The Secretary of Commerce shall provide notice to the Committee on Commerce, Science, and Transportation and Committee on Appropriations of the Senate and to the Committee on Merchant Marine and Fisheries, Committee on Science, Space, and Technology, and Committee on Appropriations of the House of Representatives, not less than 30 days before reprogramming funds available for a program, project, or activity of the National Oceanic and Atmospheric Administration in an amount greater than the lessor of—

(1) $500,000;

(2) 10 percent of the total funding of any program, project, or activity to which the funds are reprogrammed; or

(3) 5 percent of the total funding of any program, project, or activity from which the funds are reprogrammed.

TITLE V—COASTAL MONITORING

SHORT TITLE

SEC. 501. This title may be cited as the "Marine and Coastal Monitoring Act of 1991".

PURPOSE

SEC. 502. The purpose of this title is to establish under the Administrator a comprehensive national program for the monitoring of marine and coastal waters of the United States, which will provide the data and information on the status and trends of contamination levels and biological effects in such waters necessary for governmental entities to make well-informed management decisions concerning the utilization and protection of the resources of such waters.

DEFINITIONS

SEC. 503. As used in this title, the term—

(1) "Administrator" means the Administrator of the National Oceanic and Atmospheric Administration, Department of Commerce; and

(2) "marine and coastal" refers to the marine and coastal waters off the States along the coasts of the Atlantic Ocean, the Gulf of Mexico, the Caribbean Sea, and the Pacific Ocean, the marine and coastal waters off the coast of the State of Alaska, and the waters of the Great Lakes.

COMPREHENSIVE PROGRAM

SEC. 504. The comprehensive national monitoring program referred to in section 502 shall consist of—

(1) a nationwide monitoring network as described in section 505;

(2) intensive regional monitoring programs as described in section 506; and

(3) a national monitoring center as described in section 507.

NATIONWIDE MONITORING NETWORK

SEC. 505. (a) ESTABLISHMENT.—There is established within the National Oceanic and Atmospheric Administration of the Department of Commerce a unified nationwide monitoring network, which shall, on the date of enactment of this Act, include the activities and functions of the National Status and Trends Program of the National Oceanic and Atmospheric Administration as in existence immediately before such date of enactment. The network shall be the single Federal activity for the national-scale monitoring of the marine and coastal waters of the United States and shall evaluate the status and trends of the following aspects of such waters:

(1) Toxic substances, both organic and inorganic, and their biological effects.

(2) Nutrient over-enrichment and low oxygen conditions.

(3) Toxic and nuisance algal blooms.

(4) Overall ecological condition or health.

(b) INTERAGENCY COMMITTEE.—The Administrator shall carry out monitoring activities under this section in accordance with the guidance and priorities established by an interagency committee which shall be chaired by the Administrator and shall include representation from the Environmental Protection Agency, the United States Fish and Wildlife Service, the United States Geological Survey, and the Army Corps of Engineers.

REGIONAL MONITORING PROGRAMS

SEC. 506. (a) DESIGNATION OF REGIONS.—The Administrator shall designate specific estuarine and coastal regions of major concern in which the waters shall be intensively monitored. Such regions shall include—

(1) each of the estuarine areas listed in section 320(a)(2)(B) of the Federal Water Pollution Control Act (33 U.S.C. 1330(a)(2)(B)) as areas requiring priority consideration; and

(2) such additional areas as the Administrator may designate from among areas nominated for designation by the Governors of States that border those areas.

(b) MONITORING COORDINATION GROUPS.—(1) The Administrator shall establish monitoring coordination groups for each designated region to develop and direct a monitoring program tailored to the needs of the region and based on the existing monitoring conducted in the region. Each such group shall consist of representatives of the Federal, State, and other agencies with marine or coastal monitoring programs or responsibilities in the region and such academic and other experts as the Administrator may appoint. Each such group shall develop a longterm monitoring plan for the region and, within two years after the establishment of the group, shall submit the plan to the Administrator.

(2) The members of any such monitoring group shall receive neither compensation nor expenses, except that any nongovernmental experts appointed to the group may be paid actual travel expenses, and per diem in lieu of subsistence expenses when away from the member's usual place of residence, in accordance with section 5703 of title 5, United States Code, when engaged in the actual performance of duties as a member of the group.

(c) REGIONAL MONITORING ACTIVITIES.—The Administrator shall ensure that the regional monitoring activities fully incorporate activities of the nationwide monitoring network established under section 505. The Administrator shall include only such additional sampling sites, times, and measurements as are required to assemble the data and information needed by regional resource managers to identify and address estuarine and coastal problems within the region.

(d) ANNUAL OPERATING PLAN.—After approval by the Administrator of its longterm monitoring plan, each regional monitoring group shall develop annually an operating plan for the monitoring activities to be conducted in its region. Each such plan shall identify—

(1) monitoring activities proposed to be conducted;

(2) the agency responsible for each such activity;

(3) the estimated cost for each such activity; and

(4) the source of funding available for each such activity.

The Administrator, upon recommendation by the regional monitoring group, may award supplemental funding for a specific monitoring activity, not to exceed 50 percent of the total cost of the activity.

(e) REGULATIONS.—The Administrator shall issue regulations necessary to implement the provisions of this section, including procedures for the approval of longterm monitoring plans and for the awarding of supplemental funding for regional monitoring activities.

NATIONAL COASTAL MONITORING CENTER

SEC. 507. (a) ESTABLISHMENT OF CENTER.—Within 90 days after the date of enactment of this Act, the Administrator shall establish the National Oceanic and Atmospheric Administration a National Coastal Monitoring Center. The Center shall develop scientific methods and procedures for carrying out the monitoring activities under this title in an effective, efficient, and economical manner and shall issue reports and other data products to disseminate in a timely manner the results of such activities.

(b) FUNCTIONS.—The Center shall, among other things—

(1) develop a coordinated national data and information management system to assure compatibility of all data and information developed under this title and facilitate the exchange of such data and information;

(2) develop a coordinated national quality assurance and quality control program to assure accuracy and compatibility of all data and information obtained in the nationwide network and regional programs established under this title;

(3) support research studies to develop improved procedures and methods for monitoring marine environmental quality indicators and conditions;

(4) implement studies to develop recommendations for standardized sampling protocols, analytical measurement methods, and statistical data analysis procedures to be used in the nationwide network and regional programs established under this title;

(5) organize national and regional workshops and meetings, develop reports, and otherwise take actions to coordinate the Federal, State, regional, and other monitoring programs carried out in association with the nationwide network and regional programs established under this title; and

(6) develop periodically reports assessing various aspects of the status and trends of the environmental quality of marine and coastal waters of the United States, including the development every two years of a report synthesizing all the results from the activities under this title to provide an overall evaluation of the current conditions indicating environmental health of these areas and an identification of significant trends that are occurring in these conditions.

BOSTON HARBOR MONITORING

SEC. 508. (a) IN GENERAL.—As part of the program established under this title, the Administrator shall, in connection with the cleanup of the Boston Harbor, develop sophisticated and credible techniques and methodologies for collecting and analyzing baseline data on environmental phenomena in the Harbor, such as bacteria, quantity and quality of indigenous species, and swimmability. The Administrator shall work with the Massachusetts Water Resources Agency in preparing a multiyear plan for such development of techniques and methodologies.

(b) CAPE COD BAY MONITORING.—The Administrator is authorized to conduct monitoring of the ecological impacts on Cape Cod Bay resulting from the cleanup of Boston Harbor, including the effects of the effluent from the proposed outfall. Such monitoring shall be conducted in coordination with and through other appropriate public and private entities.

AUTHORIZATION OF APPROPRIATIONS

SEC. 509. There are authorized to be appropriated to the Secretary of Commerce, to enable the National Oceanic and Atmospheric Administration to carry out the program established by this title, $3,000,000 for fiscal year 1992, $7,000,000 for fiscal year 1993, $12,000,000 for fiscal year 1994, and $15,000,000 for fiscal year 1995.

TITLE VI—NOAA FOUNDATION

SHORT TITLE

SEC. 601. This title may be cited as the "NOAA Foundation Establishment Act".

ESTABLISHMENT AND FUNCTIONS

SEC. 602. (a) ESTABLISHMENT.—There is established a charitable and nonprofit corporation to be known as the NOAA Foundation (hereafter in this title referred to as the "Foundation"). The Foundation is not an agency or establishment of the United States.

(b) FUNCTIONS.—The functions of the Foundation are—

(1) to encourage, accept, and administer private gifts for the benefit of, or in connection with, the programs and activities of the National Oceanic and Atmospheric Administration, and for the benefit of, or in connection with, the activities of the Foundation;

(2) to undertake activities to enhance, support, or complement the research, analysis, measurement, assessment, conservation, management, regulatory, and service programs and activities of the National Oceanic and Atmospheric Administration;

(3) to participate with and otherwise assist international organizations, foreign governments, entities, and individuals in undertaking and conducting activities of a type conducted by the National Oceanic and Atmospheric Administration or which complement its programs and activities; and

(4) to conduct education, demonstration, outreach and training (including the convening of symposia and the presentation of public exhibitions and displays) to foster understanding of the mission of the National Oceanic and Atmospheric Administration and its programs and activities, and to stimulate and encourage appropriate cooperation and participation in its activities by regional, State and local agencies, and private organizations and individuals.

BOARD OF DIRECTORS

SEC. 603. (a) MEMBERSHIP.—The Foundation shall have a governing Board of Directors (hereafter referred to in this title as the "Board"). The Board shall consist of 13 voting members, of whom—

(1) at least 11 shall be United States citizens;

(2) nine shall be knowledgeable with respect to one or more of the research, analysis, measurement, assessment, conservation, management, regulatory, or service programs and activities of the National Oceanic and Atmospheric Administration; and

(3) four shall be educated and experienced in a scientific, technical, or professional field relating to one or more of the programs or activities of the National Oceanic and Atmospheric Administration.

The membership of the Board shall, in aggregate, possess a broad understanding of the range of programs and activities of the National Oceanic and Atmospheric Administration, and to the extent practicable, shall represent diverse points of view relating to those programs and activities. The Administrator of the National Oceanic and Atmospheric Administration shall be an ex-officio nonvoting member of the Board. Appointment to the Board shall not constitute employment by, or the holding of an office of, the United States for the purposes of any Federal law.

(b) APPOINTMENT AND TERMS.—By October 1, 1991, the Secretary of the Commerce shall appoint the voting members of the Board. The voting members shall be appointed for terms of 6 years; except that the Secretary, in making the initial appointments to the Board, shall appoint four members to a term of 2 years, four members to a term of 4 years, and five members to a term of 6 years. A vacancy on the Board shall be filled, within 60 days after such vacancy, in the manner in which the original appointment was made. No individual may serve more than two consecutive terms as a member.

(c) CHAIRMAN.—From among its voting members the Board shall elect a chairman, who shall have a 2-year term.

(d) QUORUM.—A majority of the voting members of the Board serving at any one time shall constitute a quorum for the transaction of business at that time.

(e) MEETINGS.—The Board shall meet at the call of the chairman at least once a year. If an individual serving as a voting member misses three consecutive regularly scheduled meetings, the Secretary of Commerce may remove that individual from the Board as a voting member and fill the vacancy in accordance with subsection (b).

(f) REIMBURSEMENT OF EXPENSES.—Voting members of the Board shall serve without pay, but may be reimbursed for the actual and necessary traveling and subsistence expenses incurred by them in the performance of the duties of the Foundation.

(g) GENERAL POWERS.—(1) The Board may complete the organization of the Foundation by—

(A) appointing officers and employees;

(B) adopting a constitution and bylaws consistent with the functions of the Foundation and the provisions of this title; and

(C) undertaking such other acts as may be necessary to carry out the provisions of this title.

(2) The following limitations apply with respect to the appointment of officers and employees of the Foundation:

(A) Officers and employees may not be appointed until the Foundation has sufficient funds to pay them for their service. Officers and employees of the Foundation shall be appointed without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and may be paid without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates, except that no individual so appointed may receive pay in excess of the annual rate of basic pay in effect for grade GS–18 of the General Schedule.

(B) The first officer or employee appointed by the Board shall be the secretary of the Board who (i) shall serve, at the direction of the Board, as its chief operating officer and (ii) shall be knowledgeable and experienced in matters relating to the functions and programs of the National Oceanic and Atmospheric Administration.

RIGHTS, OBLIGATIONS, AND POWERS OF THE FOUNDATION

SEC. 604. (a) IN GENERAL.—The Foundation—

(1) shall have perpetual succession;

(2) may conduct business throughout the several States, territories, and possessions of the United States and abroad;

(3) shall have its principal offices in the District of Columbia; and

(4) shall at all times maintain a designated agent authorized to accept service of process for the Foundation.

The serving of notice to, or service of process upon, the agent required under paragraph (4), or mailed to the business address of such agent, shall be deemed as service upon or notice to the Foundation.

(b) SEAL.—The Foundation shall have an official seal selected by the Board which shall be judicially noticed.

(c) POWERS.—To carry out its functions under section 602, the Foundation shall have, in addition to the powers otherwise given it under this title, the usual powers of a corporation acting as a trustee in the District of Columbia, including the power—

(1) to accept, receive, solicit, hold, administer, and use any gift, device, or bequest, either absolutely or in trust, or real or personal property or any income therefrom or other interest therein;

(2) to acquire by purchase or exchange any real or personal property or interest therein;

(3) unless otherwise required by the instrument of transfer, to sell, donate, lease, invest, reinvest, retain, or otherwise dispose of any property or income therefrom;

(4) to sue and be sued, and complain and defend itself in any court of competent jurisdiction, except that neither the members of the Board nor the officers or employees of the Foundation shall be personally liable, other than for gross negligence;

(5) to enter into contracts or other arrangements with public agencies and private organizations and persons and to make and receive such payments as may be necessary to carry out functions of the Foundation;

(6) to engage in joint projects with the National Oceanic and Atmospheric Administration under any law authorizing the Secretary of Commerce or the Administrator of the National Oceanic and Atmospheric Administration to engage in joint projects with private, non-profit organizations; and

(7) to do any and all acts necessary and proper to carry out the functions of the Foundation. For purposes of this title, an interest in real property shall be treated as including, among other things, easements or other rights for preservation, conservation, protection, or enhancement by and for the public of natural, scenic, historic, scientific, educational, inspirational, or recreational resources. A gift, devise or bequest may be accepted by the Foundation even though it is encumbered, restricted, or subject to beneficial interests of private persons if any current or future interest therein is for the benefit of the Foundation.

ADMINISTRATIVE SERVICES AND SUPPORT

SEC. 605. (a) PROVISION OF SERVICES.—The Secretary of Commerce may provide personnel, facilities, and other administrative services and assistance to the Foundation, including reimbursement of expenses under section 603(f) not to exceed current Federal Government per diem rates, for a period of up to 5 years after the date of enactment of this Act.

(b) REIMBURSEMENT.—The Foundation may reimburse the Secretary of Commerce for any administrative service provided under subsection (a). The Secretary shall deposit any reimbursement received under this subsection into the Treasury to the credit of the appropriation then current and chargeable for the cost of providing such services.

VOLUNTEER STATUS

SEC. 606. The Secretary of Commerce may accept, without regard to the civil service classification laws, rules, or regulations, the service of the Foundation, the Board, and the officers and employees of the Board, without compensation from the Department of the Commerce, as volunteers in the performance of the functions authorized under this title, in the manner provided for under section 7(c) of the Fish and Wildlife Act of 1956 (16 U.S.C. 742f(c)).

AUDITS, REPORT REQUIREMENT, AND PETITION OF ATTORNEY GENERAL FOR EQUITABLE RELIEF

SEC. 607. (a) AUDITS.—The first section of the Act entitled "An Act to provide for audit of accounts of private corporations established under Federal law", approved August 30, 1964 (36 U.S.C. 1101), is amended by adding at the end the following new paragraph:

"(75) NOAA Foundation.".

(b) REPORT.—The Foundation shall, as soon as practicable after the end of each fiscal year, transmit to Congress a report of its proceedings and activities during such year, including a full and complete statement of its receipts, expenditures, and investments.

(c) RELIEF WITH RESPECT TO CERTAIN FOUNDATION ACTS OR FAILURE TO ACT.—If the Foundation—

(1) engages in, or threatens to engage in, any act, practice, or policy that is inconsistent with its functions set forth in section 602(b); or

(2) refuses, fails, or neglects to discharge its obligations under this title, or threatens to do so,

the Attorney General of the United States may petition in the United States District Court for the District of Columbia for such equitable relief as may be necessary or appropriate.

RELEASE FROM LIABILITY

SEC. 608. The United States shall not be liable for any debts, defaults, acts, or omissions of the Foundation nor shall the full faith and credit of the United States extend to any obligation of the Foundation.

AUTHORIZATION OF APPROPRIATIONS

SEC. 609. There are authorized to be appropriated to the Secretary of Commerce to enable the National Oceanic and Atmospheric Administration to provide administrative services to the Foundation under section 605, $200,000 for fiscal year 1992.

AMENDMENT NO. 2944

(Purpose: To make an amendment in the nature of a substitute)

Mr. MITCHELL. Mr. President, I send an amendment to the desk on behalf of Senator KERRY of Massachusetts and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Maine [Mr. MITCHELL], on behalf of Mr. KERRY, for himself, Mr. STEVENS, and Mr. HOLLINGS, proposes an amendment numbered 2944.

Mr. MITCHELL. I ask that further reading of the amendment be dispensed with.

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

(The text of the amendment is printed in today's RECORD under "Amendments Submitted.")

Mr. KERRY. Mr. President, I rise to offer my strong support for S. 1405, the National Oceanic and Atmospheric Administration Authorization Act of 1991. The National Oceanic and Atmospheric Administration [NOAA] is the Nation's

lead civilian oceanic and atmospheric agency. As such, NOAA is responsible for a number of diverse and important Federal activities—from monitoring the Antarctic ozone hole to regulating fishing off the Massachusetts coastline.

Consideration of this important legislation, which I introduced on June 29, 1991, is long overdue. The legislation before the Senate today is a Committee substitute for the original text of S. 1405. In the substitute amendment, the Committee has worked to create a comprehensive NOAA authorization bill that covers the full range of agency responsibilities and addresses a number of key policy issues. The bill contains important provisions that will further national efforts to improve public weather warning and forecast systems, conserve marine resources, manage and protect the coastal environment, and monitor and assess global threats like greenhouse warning and ozone depletion.

I am particularly pleased that this legislation will finally begin the effort to modernize the NOAA fleet. At present, 23 NOAA vessels comprise about one-third of the total Federal oceanographic research capability. This fleet is essential for collecting scientific data to study ocean circulation and global climate change, charting the U.S. exclusive economic zone, monitoring our coastal water quality and assessing the state of American fisheries. Yet despite these important missions, NOAA vessels have been allowed to slip into a state of disrepair, and most are nearing the end of their 25-year service life. In addition, the ships need upgraded scientific equipment to address today's complex jobs such as mapping the ocean floor. Money authorized in this legislation will begin the process of revitalizing the fleet. The bill also requires detailed planning and realistic schedules for acquiring new ships and equipment and for replacing aging vessels.

S. 1405 also contains provisions to deal with another important NOAA activity—providing the public with weather forecasts and storm warnings. This past year, my State was hit by Hurricane Bob in August and a Halloween northeaster 2 months later. These storms caused severe damage to many coastal communities throughout New England. A number of counties in Massachusetts were declared disaster areas. As bad as the damage was, I am told that the loss of human life and property would have been far worse without the early warnings provided by the National Weather Service.

Over the past 7 years, the National Weather Service has embarked on a multimillion-dollar effort to replace outdated weather radars and observing systems, and to restructure existing field office operations to take best advantage of these new technologies. The weather service modernization effort has received broad congressional support and strong public interest. However, at the same time, many local communities have asked for assurances that they will not find themselves faced with a reduction in weather coverage as a result. In recent months, I have worked with my colleagues in the House and Senate, with the administration, and with local user groups to develop a compromise for maintaining current weather services throughout the modernization and restructuring period.

One point on which I have found complete agreement is that our public weather warning and forecast system is essential for safeguarding the lives and property of Americans across the Nation. We have also recognized the importance of keeping local weather stations open until new weather radars and observing systems are fully operational and until communities have had adequate time to assess the effects of modernization on the weather services they receive. Under existing law, before the Secretary of Commerce can close or automate a weather station, she must certify that there will be no degradation in weather services to the affected area. However, concerns have been voiced about the need for an independent review of that certification. In addition, questions have been raised about the need to ensure that communities are kept informed about changes in their local services.

In crafting this compromise, my goal has been to develop an alternative certification process that would be cost effective, ensure public safety, and allow the National Weather Service to continue implementation of the modernization program. I particularly wish to acknowledge the interest of our committee chairman, Senator HOLLINGS, in this issue. In addition, I have appreciated the leadership of Senator PRESSLER who was the principal sponsor of S. 98, the National Weather Service Modernization Act, as well as that of Senator DASCHLE who introduced S. 916, Modernization Program of the National Weather Service. Provisions of both the Pressler and Daschle bills have been incorporated into the compromise before us today.

Under this compromise, closure of any field office would be prohibited before January 1, 1996. S. 1405 calls for the National Academy of Sciences to review decision criteria for closing stations. In addition, the compromise would: First, mandate annual submission to Congress of a National Implementation Plan laying out prospective modernization activities for the subsequent two-year period; second, establish a Modernization Transition Committee to review closure decisions; and third, provide for a public comment period before such a decision could be implemented. When commissioning new radar systems, thorough documentation would be required to show that the new system met performance standards before the old system would be decommissioned. Finally, at least one liaison officer would be required to remain in an area for at least 2 years after closure of a weather service office in the area. Through these steps, the legislation would ensure that community preparedness and public access to weather services will not be disrupted during the modernization process.

Turning to the wet provisions of S. 1405, environmental quality issues have become a growing concern for coastal and marine waters. In 1990, the National Academy of Sciences issued a report on the marine monitoring needs of the Nation, including recommendations for establishing a comprehensive monitoring program. These Academy recommendations form the basis for bill provisions to authorize a NOAA-EPA monitoring program for ocean and coastal waters. The monitoring program recognizes that some regions and local areas have special problems, requiring focused attention. For this reason, the program would target certain areas for more intense monitoring activities, including a proposed effort in my own region of the country. In Massachusetts, a $6 billion effort is underway to improve water quality in Boston Harbor through improved wastewater treatment. This is one of the largest cleanups undertaken in the Nation, and provides a unique opportunity for scientists and managers to evaluate its effectiveness.

Why do we need this monitoring effort? Using a local example, I am optimistic that it will show the rate-payers of Massachusetts that the large cost of the cleanup will indeed bring Boston Harbor into compliance with the Clean Water Act and provide fishable and swimmable waters. Careful monitoring also can be used to ensure that the Harbor cleanup does not degrade adjacent waters. In particular, the new offshore outfall must not pollute Cape Cod Bay or waters of Massachusetts Bay, especially the future marine sanctuary site at Stellwagen Bank. NOAA's monitoring program in this region should not duplicate the work of the Massachusetts Water Resources Authority and the U.S. Geological Survey. Close coordination with these agencies, as well as with the Massachusetts Coastal Zone Management office, will be essential to determine the most effective use of NOAA resources.

Looking at marine fishery issues, S. 1405 calls for NOAA to undertake needed research for developing alternative tuna fishing techniques that do not involve targeting dolphins. The American public has made it clear that it will no longer tolerate the senseless killing of dolphins by the world's tuna fleets. Strong efforts by the United States have reduced dolphin mortality but have not eliminated it. Efforts to

strengthen international dolphin protection programs must continue. However, it is also time to develop alternatives that will allow valuable tuna resources to be harvested without harming dolphins. Other nations, as well as the tuna industry, are willing to contribute funds to this effort.

There are several additional provisions in this bill that are particularly important to my State. This year, NOAA is reactivating the Albatross, the NOAA vessel located in Woods Hole. This research vessel conducts stock assessments for fisheries throughout New England. At a time when many of the North Atlantic stocks are in decline, it is absolutely essential that we have accurate, up-to-date information on the state of the stocks so that informed management decisions can be made. S. 1405 specifically authorizes the funds that are needed to keep the Albatross running throughout the year.

The bill will also help the aquaculture industry by making guaranteed loans from the Fisheries Obligation Guarantee Program [FOG] available for this growing sector of the fishing business. The FOG program initially provided money for fishing vessels, but was later expanded to include fishery facilities. The purpose of the program was to provide needed capital to enhance development of the seafood industry. However, when a Massachusetts aquaculture company applied for a FOG loan, it was told that it was not eligible. As fish farming expands, and with overcapitalized conditions in many other fisheries, allowing use of the fund for aquaculture is only good sense.

Mr. President, the oceans and atmosphere are critical components of the Earth's ecosystem. These complex systems moderate global temperatures, protect us from the sun's ultraviolet radiation, and provide us with precious natural resources. The programs of the National Oceanic and Atmospheric Administration are essential for study, conservation and management of these systems. I am pleased that we are passing this important legislation today and would like to thank my colleagues who have worked with me to complete it.

Mr. HOLLINGS. Mr. President, I rise today in support of legislation to authorize appropriations for the National Oceanic and Atmospheric Administration [NOAA] for fiscal years 1992 and 1993. NOAA is the Nation's primary civilian agency collecting information about our oceans, atmosphere, and climate. Events of recent years, such as discovery of the Antarctic ozone hole and the *Exxon Valdez* oilspill, remind us of just how important such information is for ensuring the sound use of our natural resources and the protection of our global environment. Through its observation and assessment programs, NOAA monitors the environmental pulse of the planet, and over the years the agency has done its job well.

S. 1405, the National Oceanic and Atmospheric Administration Authorization Act of 1992, reauthorizes many important NOAA atmospheric and satellite, ocean and coastal, and fisheries programs. The legislation we are considering today is a substitute amendment that authorizes appropriations of $1.52 billion in fiscal year 1992 and $1.66 billion in fiscal year 1993 for NOAA administrative support and programs. The authorizations provided in the amendment are for NOAA activities in addition to those programs reauthorized under separate statute.

The substitute also contains provisions to deal with a number of important marine and atmospheric issues. Among the issues addressed are: First, modernization of the NOAA oceanographic research fleet; second, development of a comprehensive national program to monitor marine and coastal waters; third, requirements for future NOAA satellite procurements and authorization of an emergency fund to ensure weather satellite coverage; fourth, restrictions on weather station closures; and fifth, development of a joint 5-year hurricane reconnaissance program by NOAA and the Department of Defense [DOD]. I am particularly pleased that the amendment includes a compromise on the contentious weather station closing issue, and I thank Senator KERRY, PRESSLER, and DASCHLE for their efforts in that matter.

With respect to ocean issues, protection of the coastal environment has become a focus of activity at all levels of government. Each year, the various governmental agencies spend billions of dollars on corrective measures to improve our coastal environmental quality. In 1990, Federal, State, and local agencies, public utilities, and private corporations spent more than $133 million to monitor the condition of the marine environment. Given this substantial investment, it is time to establish the national comprehensive coastal monitoring program proposed in this legislation before us today. This comprehensive program would promote coordination, prevent duplication of agency efforts, and ensure a more efficient assessment of the problem and response to situations of environmental concern. The program would build on established NOAA environmental monitoring programs such as the National Status and Trends Program.

The substitute also authorizes funds to operate and build replacement vessels for the aging NOAA oceanographic fleet. NOAA performs a broad spectrum of scientific research and monitoring tasks that require it to operate a fleet of research and survey vessels in coastal and deep ocean environments. Although NOAA's duties have increased significantly in recent years, the capabilities and condition of its fleet have deteriorated to the point that the fleet is unable to carry out NOAA's current research and monitoring missions. Most NOAA vessels have reached the end of their 20- to 25-year life expectancy and are facing retirement. Further, only six of NOAA's 23 vessels have undergone partial midlife rehabilitation. Responding to concerns about the condition of the fleet, a 1991 NOAA study examined fleet and vessel requirements and proposed upgrading existing ships, replacing others, and obtaining additional ship support from other sources. The substitute amendment recognizes both the urgent need to begin modernizing and rebuilding the NOAA fleet and the importance of detailed and comprehensive planning to ensure that this effort is implemented effectively.

Regarding atmospheric and weather issues, the Nation is faced with the challenge of weather service modernization. The need for weather service modernization is clear—the existing warning and forecast system is outdated, and we are threatened by reduced services as a result of more frequent equipment failures. The current equipment, a reflection of 1950's technology, will be replaced by 1990's technology that should improve dramatically the accuracy and timeliness of weather predictions. On the other hand, the costs associated with this modernization will be substantial. In recent years, the Federal Government has spent over $1.5 billion to replace and update weather satellites, radars, surface-observing technologies, and computer capabilities. Department of Commerce [DOC] officials estimate that, over the next decade, an additional $2.5 billion will be needed to complete the job. They assure us that the enormous costs of the new system will be repaid by public savings in energy, property, lives, and suffering.

While I am willing to accept DOC's assurances about the value of the modernization program, I cannot ignore two growing concerns. First, we must ensure that essential weather warnings and forecasts are maintained as modernization is implemented. Second, we must do a better job of controlling the costs of new weather satellites, radars, and other technology. The substitute contains provisions to address both these concerns.

On an issue of primary importance in guaranteeing current service levels, the substitute would prohibit closure of local weather offices before January 1, 1996. Administration officials already have testified that we will have plenty of opportunity to see how the new radars, the new processing systems, and the new communications systems work before they make changes in community weather station operations. Little

more than 2 years ago, former Secretary of Commerce Robert Mosbacher issued a press release directing that "all of the nation's operating weather stations remain in service at current operating levels while a comprehensive program to modernize and restructure the National Weather Service is completed." Through the prohibition on station closings, we are holding the administration at it word on this issue. At the same time, we are giving communities necessary reassurances that they can continue to depend on their local offices until the new technology has proven to live up to Weather Service expectations.

I know that many of my colleagues have received letters from community leaders similar to the one I received recently from Mayor Larry Abernathy of Clemson, SC. Concerned about the proposed closing of the nearby Greer weather office, Mayor Abernathy in his July 21, 1992, letter, writes:

My community has a population of 11,100 persons, and their need of adequate weather forecasts and warnings of severe weather is no less and no greater than that of citizens of other communities in our state.

There can be no doubt that communities within forty to sixty miles of a new doppler weather radar unit, particularly if it is staffed adequately by National Weather Service meteorologists, will enjoy more accurate weather forecasts, and severe weather warnings than ever before.

But there is no doubt either that all radar signals travel line-of-sight; and that if the center of the radar beam does not strike the lower 10,000 feet of atmosphere above my community, there may quite likely be times when it will not be warned if very severe weather is about to strike, or it will be told to expect tornado-like storms which fail to materialize in or near the community.

The fact is that with limited experience to guide it, the National Weather Service is reducing its total number of adequately manned stations by more than one-half, and eliminating all of the older weather radar units in its entire system.

Yet once the meteorology staffs of the more than one hundred NWS offices are pulled and placed at the NEXRADS, and the older weather radars are put in mothballs, it will be too late to decide that the National Weather Service moved too fast.

The substitute before the Senate today will ensure that important decisions to protect public safety are not made too late. In addition to the station closing prohibition, the legislation would strengthen current requirements for proposed closures after 1996 and for automating or relocating field offices. Under existing law, the Secretary of Commerce must certify that such actions would result in no degradation of service to the public. S. 1405 also calls for public input on changes in weather service field operations, and establishes a Modernization Transition Committee to provide independent oversight. The goal of the legislation is to provide the National Weather Service with the flexibility needed to implement modernization effectively, while assuring the public that it will continue to receive the high-quality weather services on which it depends.

In order to ensure continuity of weather satellite coverage, the substitute authorizes $110 million to be appropriated for deposit in an emergency weather satellite contingency fund. This fund could be used in an emergency, such as a failure of the existing geostationary weather satellite, GOES–7, to obtain alternative satellite coverage. In addition, the substitute directs NOAA and the National Aeronautics and Space Administration to come to Congress within 120 days with a new strategic plan for the development, procurement, and operation of the DOC's environmental satellites. The joint plan would have two objectives: to ensure continuous and adequate satellite coverage and to require direct Federal fiscal and administrative accountability in all aspects of the program.

Finally, the amendment includes an important provision dealing with hurricane reconnaissance. Given the destructive legacy of Hurricane Hugo, this provision is of particular interest to the Southeast. As South Carolina learned in 1989, the Nation's national severe weather warning system is of incalculable value in reducing casualties and preparing for the onslaught of a hurricane. For almost 30 years now, that national system has relied in large part on Air Force WC–130 flights to collect vital information for accurate advance warnings of hurricanes and severe coastal weather. The substitute would establish a 5-year, joint program between NOAA and DOD to ensure that hurricane reconnaissance flights continue. The provision also would prohibit transfer of the planes from the Air Force without the agreement of the other agencies involved.

Mr. President, NOAA's programs address many critical issues facing the Nation, including the need for accurate weather warnings and forecasts, effective conservation and management of living marine resources, and increased understanding of global atmospheric and oceanic processes. The legislation before us today would authorize NOAA to continue with its many programs focusing on these important problems, and I urge my colleagues to support its passage.

Mr. BREAUX. Mr. President, I rise in support of the amendment that is being offered today to repeal the user fee imposed upon the recreational boaters of this country. This fee is grossly unfair and burdensome and should be repealed without further delay.

The recreational boat user fee was included as part of the Budget Reconciliation Act of 1990. Its purpose was not to fund increased services that the Coast Guard would offer to the boating public or to increase safety measures that would benefit boaters. Rather, its sole purpose was to help pay off the Government debt. Boaters receive absolutely no additional benefits by paying the fee. In fact, the term "user fee" is a misnomer. This "fee" is a tax inside and out—no matter what you call it.

The user fee repeal is phased out over a period of 2 years. The phaseout begins in fiscal year 1993 and ends at the end of fiscal year 1994.

The budget offset, which is necessary in order for us to repeal the recreational boat fee, will be provided by funds derived from a fee imposed on users of the new automated tariff filing and information [ATFI] system that is being implemented by the Federal Maritime Commission [FMC]. This system will permit both ocean carriers and shippers to access tariffs, or transportation rates for the carriage of goods, by remote computer access, as well as by computer access at the FMC. There will be no charge for access to the system at the FMC. Charges will only be imposed for remote, or off-site, access.

The ATFI system is a new service provided to carriers and shippers which is not now available to them. Because of enhancements to the data provided by the FMC these parties will be able to compare rates among carriers more effectively and efficiently. It is, therefore, appropriate to change for this service which is, in fact, a new benefit to which carriers and shippers may avail themselves. Also, the ATFI access fee is not permanent. It expires at the end of fiscal year 1995.

Repeal of the user fee has garnered far reaching support. We have heard testimony from the public and statements by many Members fully supporting the fee repeal. The House has overwhelmingly passed a bill repealing the user fee. I encourage my colleagues in the Senate to follow suit and to act quickly to repeal this unfair tax on American boaters.

Mr. President, I request that the text of my statement be printed in the CONGRESSIONAL RECORD.

Mr. LAUTENBERG. Mr. President, I rise in support of title V of the committee substitute to S. 1405, the NOAA Authorization Act of 1991. Title V establishes a comprehensive monitoring program for our oceans and coastal waters.

Mr. President, we have made a great deal of progress in restoring the health of our marine waters. We no longer discharge raw sewage and dump sewage sludge and industrial waste into our coastal waters and ocean. We have begun to address nonpoint pollution—runoff—which threatens our waters. And fish are returning to our Nation's estuaries.

But more remains to be done. According to EPA's latest national water quality inventory, in 1988, 30 percent of those estuaries which have been assessed either are failing to achieve

water quality standards or threaten to fail to achieve those standards. And 224 beach closures were reported in 18 States. These are remarkable figures nearly two decades after passage of the Clean Water Act.

I have joined Senator MITCHELL in introducing S. 1070, the Coastal Protection Act, to provide the program we need to address the remaining coastal problems. This act is based on hearings held jointly in 1989 by the Subcommittee on Superfund, Ocean and Water Protection which I chair and the Subcommittee on Environmental Protection. We'll address most of the provisions of the Coastal Protection Act during the Senate's consideration of the Clean Water Act.

One essential element to restoring the health of our waters and one component of the Coastal Protection Act is to establish a comprehensive marine monitoring program. Title V establishes such a program based on the monitoring program included in the Coastal Protection Act. It would establish a program to monitor garbage and other floatables along our shorelines, develop protocals for marine pollution monitoring and disseminate information about marine pollution. These provisions were first included in the Comprehensive Ocean Assessment and Strategy Act which I introduced in 1989.

Title V will be an important part of our efforts to protect our coastal waters. I am pleased that it is contained in this legislation.

Mr. BREAUX. Mr. President, I rise today for the purposes of a colloquy on the National Shellfish Indicator Program contained in the National Oceanic and Atmospheric Administration Authorization Act of 1992, S. 1405. My esteemed colleague, the Senator from Massachusetts [Mr. KERRY] will take part in this discussion.

Mr. KERRY. I understand that the Senator from Louisiana [Mr. BREAUX] has been substantially involved with the National Shellfish Indicator Program contained in the National Oceanic and Atmospheric Administration Authorization Act of 1992. Is it your understanding, Senator BREAUX, that the National Shellfish Indicator Program is intended to be a competent, scientifically based research program, to be conducted through a designated university consortium?

Mr. BREAUX. Yes, the Senator is correct. Presently, States are using federally mandated shellfish standards and shellfish growing water standards developed before major scientific advancements were made this decade in toxicological, epidemiological and microbiological analysis. With these latest scientific advancements, the shellfish standards should be reviewed and possibly revised to reflect changes in the scientific basis for the shellfish growing waters standards. The National Shellfish Indicator Program is intended to be a competent, scientifically based and focused research program to improve the existing classification system for shellfish growing waters. The Program will be conducted by a designated university consortium.

Mr. KERRY. Is it further the Senator's understanding that the National Shellfish Indicator Program will make recommendations for revising Federal shellfish standards and for improving the capabilities of Federal and State agencies to effectively manage shellfish and ensure the safety of shellfish intended for human consumption?

Mr. BREAUX. That is correct. The National Shellfish Indicator Program will make recommendations to the National Oceanic and Atmospheric Administration and the Food and Drug Administration for revising Federal shellfish standards and for improving the capabilities of Federal and State agencies to effectively manage shellfish and ensure the safety of shellfish intended for human consumption. The program also has the intent and purpose of improving existing national classification systems for shellfish growing waters using the latest technological advancements in microbiology and epidemiological methods. The program is expected to recommend improvements to existing shellfish programs and will not duplicate existing Federal, State, or local shellfish programs.

Mr. KERRY. Is it also your understanding that the National Shellfish Indicator Program funding is to be used as a source of funding for analysis and review of Federal shellfish standards, not as a method to provide Federal funding for, or replace, ongoing and existing Federal, State or local shellfish programs which are presently funded by Federal, State and local agencies?

Mr. BREAUX. Again, the Senator is correct. Funding for this program is to be used as a source of funding for analysis and review of Federal shellfish standards that will be used to improve the capabilities of Federal and State agencies to effectively manage shellfish and ensure the safety of shellfish intended for human consumption, not as a method to provide Federal funding for, or replace, existing Federal, State or local shellfish management programs which are presently funded by Federal, State and local agencies.

Mr. KERRY. I thank the Senator for clarifying the intent of the National Shellfish Indicator Program. I agree this is an important program and will be of great value in making recommendations for revising Federal shellfish standards and for improving the capabilities of Federal and State agencies to effectively manage shellfish and ensure the safety of shellfish intended for human consumption.

Mr. BREAUX. I thank the Senator from Massachusetts for helping to clarify the intent of this critical and important section of the National Oceanic and Atmospheric Administration Authorization Act of 1992.

• Mr. BURDICK. I want to commend the authors of the bill for developing constructive and farsighted legislation.

The Environment and Public Works Committee worked with the Commerce, Science, and Transportation Committee in developing new authority contained in the bill for monitoring of marine waters. We have provided for a monitoring program to be jointly managed by the Environmental Protection Agency [EPA] and the National Oceanic and Atmospheric Administration [NOAA]. We also have agreed that this new authority, structured as an amendment to the Marine Protection, Research, and Sanctuaries Act, will be the joint jurisdiction of both committees.

Mr. HOLLINGS. I thank the Senator from North Dakota and want to indicate that I share his view that this is important new monitoring authority and that the program will be under the joint jurisdiction of the Commerce and Environment and Public Works Committees.

Mr. LAUTENBERG. The portions of the Marine Protection, Research, and Sanctuaries Act within the jurisdiction of the Environment and Public Works Committee are handled by my Subcommittee on Superfund, Ocean, and Water Protection. The subcommittee developed a comprehensive marine monitoring program which was included in S. 1070, which I joined Senator MITCHELL in introducing. Title V of the NOAA Authorization Act includes language similar to the provisions of S. 1070.

The addition of the marine monitoring authority is an important step toward understanding the condition of our marine waters. I am pleased with the cooperative effort to address this issue in the Senate, and I hope that the agencies involved will address this problem in the same cooperative spirit.

Mr. KERRY. The marine monitoring provision before us today is based on a provision I developed in the Commerce Committee. The amended provision adds new authority for the EPA to work jointly with NOAA on these efforts and reflects provisions included in S. 1070, introduced by Senators MITCHELL and LAUTENBERG. It also includes important new authority for intensive monitoring of specific areas, including Cape Cod Bay.•

Mr. CHAFEE. Mr. President, I want to commend the authors of S. 1405, a bill authorizing appropriations for the National Oceanic and Atmospheric Administration. I am particularly pleased with title V of this bill, which establishes a comprehensive program for consistent monitoring of the Nation's marine ecosystems.

As Senators BURDICK, HOLLINGS, LAUTENBERG, and KERRY have noted in a

colloquy, this title was jointly developed by the Committee on Commerce, Science and Transportation, and the Committee on Environment and Public Works. It will be jointly administered by the Environmental Protection Agency and the National Oceanic and Atmospheric Administration. Title V amends the Marine Protection, Research and Sanctuaries Act, and will be the joint jurisdiction of both committees.

The need for a National Marine Monitoring Program, as provided for in this act, is becoming increasingly more apparent. In hearings before the Environment and Public Works Committee, I and other Senators have been frustrated by the lack of definitive answers to seemingly basic questions. Is the shell disease seen in many New England lobsters caused by the ocean disposal of sludge? No one seems to know for sure. Why have oyster harvests in Chesapeake Bay declined by almost two-thirds? What is causing the disorder that results in the beaching of hundreds of dolphins? What is the relationship between the introduction of pollutants to the marine environment and the contamination of marine organisms? What is the impact of extensive new sewage treatment plant capacity on the water quality of Narragansett Bay?

In 1988, Robert Duce, then dean of the University of Rhode Island's Graduate School of Oceanography, lamented in congressional testimony that in many coastal areas we simply do not know with any scientific accuracy whether there has been improvement or degradation. He also noted that the necessary measurements and long-term monitoring programs that can give us a standard against which we can gauge water quality, and by which we can measure water quality changes, simply have not been available for most coastal regions.

Before Government can act intelligently, it is essential that we develop a thorough scientific understanding of our marine resource and identify threats to its quality. This knowledge is vital if we are to protect the marine environment and act to prevent problems before they become unmanageable. A report by the congressional Office of Technology Assessment concluded that—monitoring, research, and enforcement are currently inadequate. Information gaps still constrain analyses of marine wastes disposal, partly because of lack of information gathering in some areas of the country, lack of systematic analyses of gathered data, and ineffective dissemination of results.

Title V of the bill we are approving today is in direct response to this critical lack of information. It is a major step toward collecting the information we need to accurately determine the health of our Nation's marine ecosystems.

I am also pleased, Mr. President, that the monitoring program activities conducted by the Environmental Protection Agency will be conducted at the EPA Environmental Research Laboratory in Narragansett, RI. This laboratory is already conducting the near-coastal activities under EPA's Environmental Monitoring and Assessment Program, and is working closely with NOAA in implementing its status and trends program. Also the Narragansett lab is directly involved with the Marine Ecosystem Research Laboratory at the University of Rhode Island, a facility that is uniquely capable of simulating pollution impacts on the marine environment. The EPA Environmental Research Laboratory at Narragansett is ideally suited to conducting the monitoring activities authorized in this legislation.

I would urge all my colleagues to support this legislation.

The PRESIDING OFFICER. Without objection, the amendment is agreed to.

The amendment (No. 2944) was agreed to.

The bill is open to further amendment. If there be no further amendment to be proposed, the question is on agreeing to the committee amendment in the nature of a substitute, as amended.

The committee amendment in the nature of a substitute, as amended, was agreed to.

The PRESIDING OFFICER. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading, was read the third time, and passed, as follows:

(The text of the measure as passed the Senate today will be printed in a future edition of the RECORD.)

NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION AUTHORIZATION ACT

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Senate proceed to Calendar No. 364, H.R. 2130, the House companion measure, and that all after the enacting clause be stricken, the text of the Senate passed amendment be inserted in lieu thereof, that H.R. 2130 be deemed read the third time, passed, the motion to reconsider be laid upon the table; and further that the amendment to the title be agreed to.

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

So the bill (H.R. 2130), as amended was deemed read a third time, and passed.

The title was amended so as to read: "An Act to authorize appropriations for the National Oceanic and Atmospheric Administration, and for other purposes.".

MEASURE RETURNED TO CALENDAR—S. 1405

Mr. MITCHELL. Mr. President I ask unanimous consent that passage of S. 1405 be vitiated, and that the bill be returned to the calendar.

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

WAIVING PERIOD OF CONGRESSIONAL REVIEW FOR CERTAIN DISTRICT OF COLUMBIA ACTS

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Governmental Affairs Committee be discharged from further consideration of H.R. 5623, a bill to waive the period of congressional review for certain District of Columbia Acts, and that the Senate then proceed to its immediate consideration, that the bill be deemed read the third time, passed, and the motion to reconsider laid upon the table.

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

So the bill (H.R. 5623) was deemed read the third time, and passed.

CHILDHOOD CANCER MONTH

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Senate Judiciary Committee be discharged from further consideration of House Joint Resolution 492. a joint resolution designating September 1992 as Childhood Cancer Month; that the Senate proceed to its consideration; that it be deemed read a third time, and passed.; that the motion to reconsider be laid upon the table, and that any statements thereon appear in the RECORD at the appropriate place as though read.

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

So the Joint Resolution (H.J. Res. 492) was deemed read the third time, and passed.

INDIAN BUSINESS OPPORTUNITIES ENHANCEMENT ACT

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 618, S. 3118, the Indian Business Opportunities Enhancement Act.

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

The legislative clerk read as follows:

A bill (S. 3118) to increase employment and business opportunities for Indians, 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 Select Committee on Indian Affairs, with an amendment to strike all after the en-

acting clause and inserting in lieu thereof the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Indian Business Opportunities Enhancement Act".

SEC. 2. FINDINGS AND DECLARATIONS.

(a) FINDINGS.—The Congress, after careful review of the economic conditions on Indian reservations, and the historical and special legal relationship of the Federal Government with Indian people, finds that—

(1) economic self-sufficiency is an essential element in achieving self-determination by Indian tribes and Indian people;

(2) increased Indian employment and business opportunity are key elements to achieving economic self-sufficiency for Indian tribes;

(3) the funds spent by the United States on reservations or otherwise spent for the benefit of Indians need to be utilized, not only to purchase goods and services but, to the maximum extent feasible, to promote Indian employment and business opportunities on or near Indian reservations;

(4) the awarding of a preference in training, employment, contracting, and subcontracting opportunities has proven to be an exceptionally effective means of ensuring that Indians receive the maximum benefit from Federal funds appropriated on their behalf; and

(5) companies and individuals that seek to take improper advantage of Indian preference opportunities hinder Indian economic development and damage the credibility of Indian preference programs.

(b) DECLARATIONS.—The Congress declares that—

(1) a major national goal of the United States is to ensure that the procurement of goods and services on Indian reservations or otherwise for the benefit of Indians shall be carried out in a manner that achieves the maximum benefit for Indian employment and business development on or near Indian reservations; and

(2) a secondary, but essential goal, is to prevent and prohibit companies from misusing Indian preference programs.

SEC. 3. BUY INDIAN ACT AMENDMENT.

(a) PREFERENCE.—(1) The Secretary of the Interior, where funds are appropriated for the benefit of Indians, shall—

(A) in the award of the contract, including (but not limited to) housing, roads and facilities, construction, office supplies or printing, provide a preference to Indian preference enterprises that provide the greatest economic impact on Indian reservations; and

(B) require that the recipient of the contract—

(i) provide preferences to Indians for training and employment in connection with such contract and require any recipient of a subcontract to provide such preferences, and

(ii) provide a preference to Indian preference enterprises in the awarding of subcontracts under the contract.

(2) When establishing criteria for evaluating proposals for a contract subject to the provisions of this Act, the Secretary shall provide that no less than 2 percent of the evaluation points shall be awarded for each of the criteria set out in paragraph (3) of this subsection that an enterprise, whether Indian- or non-Indian-owned, satisfies or swears, in an affidavit, that it will satisfy in carrying out the contract.

(3) Solely for the purpose of determining which bid is the lowest after the opening of sealed bids on any contract subject to this Act, a bidder, whether Indian or non-Indian, shall be credited with a deduction equal to 2 percent of its bid amount for each of the following factors that the bidder, by means of an affidavit accompanying the bid, swears that he satisfies or will satisfy in carrying out the contract:

(A) the bidder's main office is located on an Indian reservation and at least 50 percent of the dollar value of the contracts of the bidder for each of the previous 2 years has taken place within 300 miles of its main office;

(B) no less than 70 percent of the subcontract dollars the bidder will award under the contract will be awarded to reservation-based, Indian-owned subcontractor as evidenced by a subcontract plan which specifically cites the Indian subcontractor and the subcontract price; and

(C) no fewer than 70 percent of the person hours that will be expended in carrying out the contract will be worked by Indians.

(4) An enterprise which, upon completion of the contract, failed to satisfy any of the factors which it swore it satisfied or would satisfy in its affidavit pursuant to the provisions of this subsection, shall pay a penalty equal to 10 percent of the contract amount. However, the contracting officer may decrease the penalty if the contractor demonstrates, by substantial evidence, that it failed to satisfy the factor or factors because of events that were beyond its control. If the contracting officer has reason to believe that the enterprise's failure to satisfy any of its representations under this subsection resulted from deliberate misrepresentation, the officer shall refer the matter to the appropriate United States Attorney who shall determine whether prosecution under section 1001 of title 18, United States Code, is appropriate.

(5) The contracting officer shall not make an award on any contract subject to this Act until the prospective awardee has submitted an acceptable Indian preference compliance plan. The Plan shall, at a minimum, describe how the awardee intends to maximize the use of qualified Indian workers, subcontractors, and suppliers. The contracting officer shall provide the tribe on whose reservation the contract is to take place, with not less than 2 calendar days during which the tribe may review and comment on the plan prior to acting on it. However, all final determinations regarding the acceptability of a compliance plan shall vest in the contracting officer.

(6)(A) The Secretary of the Interior shall have the authority to provide a preference to Indian preference enterprises in the award of a contract that does not involve funds appropriated for the benefit of Indians by any agency within the Department of the Interior if the Secretary believes the preference will help fulfill the special responsibilities of the Secretary toward Indians.

(B) The Secretary may, in his discretion, establish annual objectives for each Bureau and office within the Department of the Interior for the total amount obligated for contracts and subcontracts entered into with Indian preference enterprises, including mass media, owned and controlled by Indians or Indian tribes, the majority of the earnings of which directly benefit such individuals or tribes.

(7) The preferences provided by reason of this subsection shall have priority over all other Federal procurement preferences.

(8)(A) For the purposes of this section, funds awarded or distributed under a contract are appropriated for the benefit of Indians if—

(i) Indians are the primary beneficiaries of the contract;

(ii) the majority of the activity to be undertaken under the contract takes place within the exterior boundaries of an Indian reservation; or

(iii) the contract is entered into under the Act of April 16, 1934 (25 U.S.C. 452 et seq.), or under title II of the United States Housing Act of 1937 (42 U.S.C. 1437aa et seq.).

(B) The provisions of this section shall not apply to the awarding of contracts under the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b et seq.) by the Department of the Interior, but shall apply to the awarding of subcontracts of such contracts, and to employment and training opportunities under such contracts and subcontracts.

(C) The provisions of this section shall not apply with respect to contracts for the procurement of expert advice and testimony in litigation conducted by the United States as trustee for Indian or Indian tribes.

(D) This section shall apply to all Indian preference enterprises of all Indian tribes.

(E) Nothing in this section shall preclude the Indian Health Service, the Office of Indian Programs in the Department of Housing and Urban Development, the Indian Health Service or the Administration for Native Americans from utilizing, at their discretion, the preferences provided under this section where funds are appropriated for the benefit of Indians.

(9)(A) The Department of the Interior shall implement the preference provided under paragraph (1)(A) by limiting the competition for the awarding of a contract to Indian preference enterprises if—

(i) there is reasonable expectation that offers will be obtained from at least—

(I) 3 responsible offerors in the case of a contract for architectural engineering services, or

(II) 2 responsible offerors in the case of a contract for the procurement of any other services or for the procurement of any product; and

(ii) the contract can be awarded at a fair and reasonable price.

(B) If only one offer is received under a competition restricted to Indian preference enterprises, the Department of the Interior may negotiate an award of the contract at a fair and reasonable price to such offering Indian preference enterprise.

(10)(A) If it is not feasible for the Department of the Interior to limit the competition for the award of a contract under the authority of paragraph (9), and the Department elects to award the contract after full and open competition, the contract shall be awarded to any responsible Indian preference enterprise submitting the lowest bid submitted by a responsible Indian preference enterprise, if that bid does not exceed the bid submitted by any other responsible bidder by more than the percentage prescribed by the Department of the Interior in regulations. If a factor other than price is determinative in the award of a contract, the Department shall utilize a comparable method to provide a preference to Indian preference enterprises in the selection process.

(B) The percentage prescribed in subparagraph (A) that establishes a maximum limitation on the difference between the bids shall not be more than 10 percent.

(11) The preference requirements of this section may be waived only if the responsible officer determines that there are extraordinary circumstances. The determination to make such a waiver may only be made by the Assistant Secretary of the Interior for Indian Affairs.

(12) The Department of the Interior, to the greatest extent feasible, shall advertise the contracts to which this section applies at a date sufficiently in advance of the date of performance must begin under the contract to permit a subsequent open market advertisement of the contract if the contract cannot be awarded under the limited competition provision of this subsection.

(13)(A) Except as provided in subparagraph (B), the preferences required to be provided to enterprises under this section may only be provided to Indian preference enterprises.

(B) The requirements of the Small Business Competitiveness Demonstration Program Act of 1988 (Public Law 100-656) shall not apply to contracts awarded pursuant to this section. The Secretary shall set aside the following contracts

for Indian preference enterprises that are either tribally owned or small, as the term "small" is defined by section 3 of the Small Business Act (15 U.S.C. 632):

(i) all construction contracts estimated to cost less than $1,000,000,

(ii) all design contracts estimated to cost less than $100,000, and

(iii) all other contracts as appropriate to ensure Indian-owned businesses have an ample opportunity to develop.

(C)(i) An Indian preference enterprise may benefit from a preference provided under this section only if the enterprise submits to the Department of the Interior or person that is to provide the preference an affidavit certifying that the enterprise continues to meet the requirements necessary for certification by the Secretary as an Indian preference enterprise. The affidavit shall be executed and submitted at the time the contract or subcontract offer is submitted and again at the time the contract or subcontract is awarded.

(ii) The Department of the Interior or any person that receives an affidavit submitted by an enterprise under clause (i) shall submit a copy of the affidavit to any Indian tribe that would be affected by the contract or subcontract for which the enterprise seeks a preference under this section.

(iii) Prior to actual award of a contract the Secretary will verify the accuracy of the successful bidder's preference affidavit by conducting an on-site visit to the enterprise and other due diligence related to the affidavit.

(iv) The Secretary may waive the on-site visit requirement set forth in clause (iii) of this subparagraph if such waiver is in the best interest of the Federal Government.

(D)(i) Any Indian preference enterprise that—

(I) is engaged in construction activities, and

(II) has successfully completed, independently, at least one contract, may enter into joint ventures with other enterprises that are not Indian preference enterprises, provided that such joint venture is certified by the Director of Indian Business Utilization.

(ii) Any Indian preference enterprise that enters into a joint venture under clause (i) shall remain eligible, and the joint venture shall be eligible, for preferences under this section so long as the Indian preference enterprise—

(I) owns and controls at least 51 percent of the joint venture and receives at least 51 percent of the profits of the joint venture,

(II) has successfully completed, independently, at least one contract for each contract awarded to the joint venture for which a preference is provided under this section,

(III) serves as the general partner for managing the joint ventures, and

(IV) until such joint venture has completed four construction contracts.

(b) For purposes of this section—

(1) The term "Indian preference enterprise" means an Indian enterprise that is certified under subsection (c) of this section as eligible for the preferences provided under this section, and which satisfies one of the following criteria:

(A) an enterprise which—

(i) is engaged in construction (within the meaning of the Indian Self-Determination and Education Assistance Act),

(ii) is entirely owned by one or more Indian tribes, which receive 100 percent of the profits of the enterprise, or

(iii) is entirely owned by one or more Indians, one of whom—

(I) acts as the chief executive officer of the enterprise, and

(II) has the experience and training to manage, and does in fact manage, the day-to-day activities of the enterprise,

(B) an enterprise—

(i) which is engaged in any business other than construction,

(ii) at least 51 percent of which is owned by one or more Indian tribes that receive not less than 51 percent of the profits of the enterprise, or

(C) an enterprise—

(i) which is engaged in any business other than construction,

(ii) at least 51 percent of which is owned by one or more Indians who receive not less than 51 percent of the profits of the enterprise, and

(iii) which has an Indian owner who—

(I) acts as chief executive officer of the enterprise, and

(II) has the experience and training to manage, and does in fact manage, the day-to-day activities of the enterprise.

(2) The terms "Indian" and "Indian tribe" have the respective meaning given to each of such terms under section 4 of the Indian Self-Determination and Education Assistance Act (25 U.S.C.450b).

(3) The term "Secretary" means the Secretary of the Interior.

(4) Except for purposes of paragraph (8)(B) of subsection (a) the term "contract" includes subcontracts.

(5) The term "Indian reservation" has the same meaning given to the term "Reservation" by section 3(d) of the Indian Financing Act of 1974 (25 U.S.C. 1452(d)).

(c)(1) An enterprise seeking to utilize the preference provided for under this Act shall self-certify that it is an Indian preference eligible enterprise. An enterprise shall, when submitting a contract or subcontract bid or proposal for a preference provided by this Act, submit an affidavit swearing that it meets the certification requirements set out by the agency awarding the contract or subcontract. Nothing in this provision shall prohibit the Department of the Interior, when conducting a preaward review, from investigating an enterprise's eligibility for the preferences provided for in this Act or from determining at that stage that an apparent awardee is in fact not eligible for such preferences.

(2) The regulations of the Department of the Interior implementing the provisions of this Act providing for protests to challenge an enterprise's self-certification shall provide that eligible protesters include:

(A) The tribe on whose reservation the contract is to be carried out.

(B) Offerors.

(d)(1) There is established within the Department of the Interior an Office of Indian Business Utilization (hereinafter referred to as the "Office"), which shall be under the supervision and direction of a Director of Indian Business Utilization (hereinafter referred to as the "Director").

(2) The Director shall have such responsibilities as the Secretary deems appropriate and necessary to carry out the duties of the Director under this Act.

(3) The Office of Indian Business Utilization shall—

(A) after consulting with the Secretary, develop and publish a set of criteria to be utilized by Indian enterprises in certifying themselves as eligible for the preferences provided under this section, as well as regulations necessary to implement the provisions of this section, within 180 days after enactment of this section;

(B) be the principal Federal office responsible for overseeing the administration of the provisions of this section;

(C) conduct periodic random investigations of Indian preference enterprises to ensure that those enterprises satisfy the criteria under subsection (c)(1), and are eligible for preferences;

(D) upon request, assist the Department of the Interior agencies to investigate complaints alleging one or more violations of this section or the regulations prescribed under this section, including (but not limited to) allegations that—

(i) an enterprise that does not qualify as an Indian preference enterprise was awarded a contract with the assistance of a preference provided under this section,

(ii) an enterprise misrepresented its status to the Office or a contracting officer, or

(iii) an enterprise is no longer an Indian enterprise or in compliance with the criteria established under this section;

(E) investigate complaints alleging that an Indian tribe is improperly administering preferences required under this section in a manner that exhibits a documented pattern of abuse and seriously jeopardizes the rights of Indians or Indian enterprises;

(F) monitor the implementation of the preference provided by this section and report to Congress as appropriate when the Office has determined that there is a need to amend the provisions of this section;

(G) certify joint ventures pursuant to paragraph (13)(D)(i) of subsection (a); and

(H) have whatever additional responsibilities the Secretary may prescribe.

(4) If, as the result of an investigation, the Department of the Interior determines that any of the conditions described in paragraph (3) of this subsection exists with respect to any enterprise, the Secretary shall—

(A) revoke the certification of such enterprise as an Indian enterprise eligible for the preferences provided under this section;

(B) transmit all information available regarding such conditions to the Inspector General of the Department of the Interior; and

(C) transmit all information to the Director of the Office of Indian Business Utilization.

(5)(A) Any determination by the Department of the Interior to deny any enterprise certification as an Indian enterprise eligible for the preferences provided under this section, or to revoke such certification—

(i) shall constitute a rebuttable presumption that such enterprise is ineligible for such preferences, and

(ii) may be appealed pursuant to the Contract Disputes Act of 1978.

(B) The decision of the contract appeals board under subparagraph (A) shall—

(i) be considered final agency action by that department on petition, and

(ii) be subject to judicial review under chapter 7 of title 5, United States Code.

(6) In addition to the requirements of subsection (c)(1), an Indian tribe may require that firms seeking an award of a contract or subcontract subject to this section that is to take place on the tribe's reservation on which preference provided under this section is to be provided, be precertified by the tribe as being eligible for such preference. Failure to submit a certification application shall disqualify an enterprise from competing. Denial of the certification by the tribe shall not disqualify an enterprise from competing for such contract. After an apparent awardee is selected, if a protest is filed against an enterprise that was certified as eligible by the tribe, or if the apparent awardee was denied certification by the tribe, the Department of the Interior shall make a determination of eligibility within 15 days, giving substantial weight to the tribe's determination certifying or denying certification to the enterprise that is the subject of the protest. The decision of the Department of the Interior shall be final and no appeal shall be permitted.

(e)(1) If—

(A) a contract to which the preferences provided under this section apply is to be performed on a reservation of an Indian tribe; and

(B) the governing body of the Indian tribe has—

(i) established preferences generally comparable to those provided under this section,

(ii) established a tribal office to enforce those preferences, and

(iii) submitted to the Secretary a written request by tribal resolution that this paragraph apply, the Federal agency awarding the contract on that tribe's reservation shall delegate to the tribe responsibility for monitoring the contractor's compliance with that agency's Indian preference requirements.

(2) Enforcement authority under this section shall remain with the Department of the Interior.

(3) The Department of the Interior shall provide an Indian tribe with notification of any contract, the performance of which will occur on such tribe's reservation, no less than 30 days prior to the advertising of the contract, unless waived by the tribe, and shall otherwise work cooperatively with the tribe on enforcement of Indian preferences provided under this section.

(4) Nothing in this section shall be interpreted to preempt tribal authority to independently impose or enforce Indian preference requirements which are not inconsistent or in conflict with this section or other applicable law.

(f) In addition to any other penalties provided under Federal or tribal law, whoever misrepresents the status of an individual as an Indian, or of an enterprise as an Indian enterprise or an Indian preference enterprise, in order to obtain a preference under this section for such person or any other person—

(1) shall be subject to a civil action brought in a tribal court of an Indian tribe affected by the misrepresentation and a civil penalty of not more than $1,000 may be imposed;

(2) shall be liable to the United States for the amount paid under any contract, that was obtained by reason of the preference;

(3) shall be subject to suspension and debarment as specified in subpart 9.4 of part 9 of title 48 of the Code of Federal Regulations (or any successor regulation) on the basis that such misrepresentation indicates a lack of business integrity that seriously and directly affects the present responsibility to perform any contract awarded by the Federal Government; and

(4) shall be ineligible for any preference provided under this section.

(g)(1) The Director may request the Inspector General of the Department of the Interior to conduct an investigation of any contract or subcontract with respect to which preferences are required to be provided under this section.

(2) By no later than the date that is 60 days after the date on which a request is submitted to the Inspector General of the Department of the Interior under paragraph (1), the Inspector General shall submit to the Director a written response to the request detailing the actions, if any, the Inspector General will take with respect to the request.

(h)(1)(A) The Secretary, through the Director, shall establish an Indian Enterprise Bonding Demonstration Program to assist Indian enterprises in obtaining bonds from traditional surety companies.

(B) The bonding program established by this subsection may include assistance to Indian preference enterprises or traditional surety companies, involving, but not limited to—

(i) issues of tribal sovereignty,

(ii) trust status of Indian property on Indian reservations,

(iii) procedures to expedite dispute resolution regarding change orders and unforeseen delays in project completion,

(iv) collateral requirements, and

(v) management and credit experience.

(C) The Secretary may, in connection with the Indian Enterprise Bonding Demonstration Program—

(i) provide advance payments to Indian contractors in amounts to cover the bonding, mobilization, labor, subcontractors, materials, fuel, and special leased equipment for an individual project,

(ii) provide government-furnished materials for use by the Indian contractor, and

(iii) provide other appropriate assistance to the Indian contractor.

(2) The Secretary may, at his discretion, waive the provisions of the Act of August 24, 1935 (40 U.S.C. 270a et seq.), with respect to a contract awarded to an Indian preference enterprise by a Federal agency if—

(A) the award price of the contract is anticipated to be $500,000 or less;

(B) the Indian preference enterprise has been determined to be a responsible contractor capable of performing the contract;

(C) the Federal agency determines that the Indian preference enterprise has been unable to obtain the requisite bonds either through the Indian Enterprise Bonding Demonstration Program or after making good faith application to at least 2 surety firms determined by the Secretary of the Treasury to issue acceptable bonds pursuant to chapter 93 of title 31, United States Code, even with a guarantee provided pursuant to title IV of the Small Business Investment Act of 1958 (15 U.S.C. 692 et seq.); and

(D) the Indian preference enterprise has provided for the protection of persons furnishing materials and labor, in lieu of a payment bond, through a program of direct disbursement from the Federal Government of payments due to such persons from such Indian preference enterprise through an escrow account established and maintained by the Indian preference enterprise at any bank the deposits of which are insured by the Federal Deposit Insurance Corporation.

(3) A waiver granted under paragraph (2) of this subsection shall be granted as a last resort, and is entirely subject to the discretion of the Secretary.

(i)(1) Each agency of the Department of the Interior that issues a contract or subcontract pursuant to this section, the Indian Self-Determination and Education Assistance Act (Public Law 93-638), the Act of April 16, 1934 (40 Stat. 596), or any other Federal law authorizing Federal contracts with Indian organizations or for the benefit of Indians, shall comply with the requirements of the Prompt Payment Act (31 U.S.C. 3901-3906).

(2) The Secretary shall, consistent with the purposes of the Administrative Dispute Resolution Act (104 Stat. 2736 et seq.) provide an alternative dispute resolution procedure that offers a prompt, expert, and inexpensive means of resolving disputes that arise under contracts subject to this Act as an alternative to litigation in Federal courts. Such mechanism shall—

(A) be available on request to any enterprise, and

(B) produce a recommendation for settlement within a reasonable time period from the date the contracting officer receives the enterprise's request.

(3) Any enterprise involved in a dispute pursuant to paragraph (2) of this subsection may request that arbitration be used to resolve a dispute arising under this Act. Such arbitration shall produce a final, binding decision within 45 days from the date the contracting officer receives the enterprise's request.

(j) Section 23 of the Act of June 25, 1910 (25 U.S.C. 47), is repealed.

SEC. 4. CONFORMING AMENDMENTS.

The first paragraph under the subheading "Secretary" that is under the superior heading "I. General Provisions" of the Act of April 30, 1908 (25 U.S.C. 47) is amended by striking out the last proviso.

SEC. 5. CRIMINAL PENALTIES.

Chapter 53 of title 18, United States Code, is amended by adding at the end thereof the following new section:

"SEC. 1171. INDIAN PREFERENCES.

"Any person who, in any document, with the intent to defraud the Government knowingly conceals or fails to disclose any fact, the disclosure of which—

"(1) is required under section 3 of the Indian Business Opportunities Enhancement Act, or any regulations prescribed under such section, or

"(2) is necessary to verify or clarify whether an enterprise or individual is eligible for any preference provided under such section, shall be fined not more than $50,000, or imprisoned not more than 5 years or both.".

SEC. 6. MANPOWER AND JOB TRAINING.

The Secretary of the Interior is authorized to negotiate and enter into cooperative agreements with Indian tribes to engage in cooperative manpower and job training and development programs including the performance of work on lands owned and controlled by the Department of the Interior. Such cooperative agreements may be entered into with any agency or office within the Department of the Interior. In such cooperative agreements, the Secretary of the Interior is authorized to advance or reimburse funds to tribes from any appropriations available for similar kinds of work or by furnishing or sharing materials, supplies, facilities, or equipment without regard to the provisions of section 3324 of title 31, United States Code.

SEC. 7. FEDERAL FACILITIES FOR THE BENEFIT OF INDIANS.

(a) LOCATION OF FACILITIES.—The Bureau of Indian Affairs and the Indian Health Service shall, in all matters connected with establishing or developing facilities to provide services or assistance to Indians, locate such facilities on tribal lands, unless patently not feasible to do so.

(b) EMPLOYMENT PERFORMANCE.—Any employment opportunities at the facilities described in subsection (a) shall be subject to the employment preferences provided by this Act.

SEC. 8. DATABASE.

(a) ESTABLISHMENT.—The Secretary shall enter into contracts with an eligible entity to establish and operate an Indian Enterprise Data Center.

(b) DATA COLLECTION.—The responsibility of the Data Center shall include—

(1) listing Indian enterprises eligible for various Federal minority preference programs,

(2) listing the businesses in which such enterprises are engaged,

(3) listing the experience of such enterprises in fulfilling contract obligations,

(4) listing the capabilities of such enterprises,

(5) verifying preference information and documentation submitted to the Data Center and reporting any discrepancies to the Office of Indian Business Utilization,

(6) listing advance procurement information for the purposes of bid matching contract opportunities to contractor capabilities,

(7) listing known front organizations or fraudulent operators, and

(8) providing whatever additional information the Secretary deems relevant.

(c) INFORMATION DISSEMINATION.—The Data Center annually shall provide a list of Indian enterprises eligible for various minority preferences to the Federal agencies that administer such preferences, and to private entities requesting such list.

(d) ELIGIBLE ENTITIES.—Entities eligible to enter into a contract under subsection (a) shall be tribal, private, public, or educational institutions with experience in Indian business development.

Mr. CONRAD. Mr. President, I rise in strong support of S.3118, the Indian Business Opportunities Enhancement Act. This legislation is the product of discussions that have spanned more than 3 years, beginning with the effort to amend the Buy Indian Act that took place during the 101st Congress.

In 1990, the President pocket vetoed S.321, which would have made significant changes in the 80-year-old Buy Indian Act. Since that time, negotiations have taken place with an eye toward fashioning a compromise that would address the very real deficiencies in the current law, as well as address the administration's objections to the original proposal.

The bill before us is a bipartisan effort to do just that. It is cosponsored by Senators INOUYE, MCCAIN, SIMON, MURKOWSKI, AKAKA, BURDICK, DOMENICI and myself, and I am pleased that the Senate is prepared to consider it today.

The need to significantly amend the Buy Indian Act became apparent in 1989, during hearings held by the Special Committee on Investigations. The special committee, which was established by the Select Committee on Indian Affairs, conducted an investigation of fraud, corruption, and mismanagement in American Indian affairs. The investigation revealed that unscrupulous front companies were taking improper advantage of vulnerable Indian entrepreneurs and abusing Federal contracting preferences.

Beyond the front issue, it has become increasingly clear that the Buy Indian Act is not sufficiently geared to providing meaningful economic development opportunities on Indian reservations.

The Indian Business Opportunities Enhancement Act comprehensively addresses each of these shortcomings.

The bill better focuses the Buy Indian Act on reservation economic development. It establishes set-asides to ensure that small local businesses have ample opportunity to develop. It creates mechanisms to expedite dispute resolution and contract payments. It helps Indian businesses obtain surety bonds. And it provides numerous safeguards against front operations.

I chaired the Select Committee's hearing on this measure on July 2, 1992. At that time, although the bill had been formulated in cooperation with the Bureau of Indian Affairs, the administration refused to allow the BIA or the Indian Health Service to answer substantive questions about the bill, or even state the agency's position on the bill.

I was very unhappy with the BIA, to put it mildly, when they testified before me at the hearing. I thought they should have been prepared to offer substantive comments, but they were not.

But Mr. President, since that time the BIA has made a valiant effort to convince the administration that it should support this legislation. And if not for the BIA's advocacy during the last few weeks, it is safe to say that this bill would not be before the Senate today. I commend and thank the BIA for its efforts since the hearing, and hope those efforts will continue.

But I don't have the same words for the remainder of the administration, including the Indian Health Service. In fact, I find the actions of much of the administration in this matter disgraceful. The fact that the BIA had to fight so vehemently to support this bill within the administration makes me question the administration's sensitivity to those who reside throughout Indian country.

At the same time, Mr. President, the fact that the BIA has been moderately successful gives me hope that the administration will ultimately join our effort to enact this much-needed legislation into law.

Mr. President, this proposal has undergone substantial modifications as part of the committee's good faith attempt to compromise with the administration. Indeed, I believe the committee has met the administration more than half way. It is time for the administration to become a constructive partner in this debate, rather than hide behind the misinformed reluctance of a few government bureaucrats. I urge the administration to join in the effort to enact this important legislation this year.

Thank you, Mr. President. I yield the floor.

AMENDMENT NO. 2945

(Purpose: To reduce a civil penalty)

Mr. MITCHELL. On behalf of Senator INOUYE, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Maine [Mr. MITCHELL], for Mr. INOUYE, proposes an amendment numbered 2945.

Mr. MITCHELL. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

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

The amendment is as follows:

In section 3(f)(1) of the committee substitute, strike out "$50,000" and insert in lieu thereof "$1,000".

Mr. MITCHELL. The question is on agreeing to the amendment.

The amendment (No. 2945) was agreed to.

The PRESIDING OFFICER. The bill is open to further amendment. If there be no further amendment to be proposed, the question is on agreeing to the committee amendment in the nature of a substitute, as amended.

The committee amendment in the nature of a substitute, as amended, was agreed to.

The PRESIDING OFFICER. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading, was read the third time, and passed, as follows:

S. 3118

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 "Indian Business Opportunities Enhancement Act".

SEC. 2. FINDINGS AND DECLARATIONS.

(a) FINDINGS.—The Congress, after careful review of the economic conditions on Indian reservations, and the historical and special legal relationship of the Federal Government with Indian people, finds that—

(1) economic self-sufficiency is an essential element in achieving self-determination by Indian tribes and Indian people;

(2) increased Indian employment and business opportunity are key elements to achieving economic self-sufficiency for Indian tribes;

(3) the funds spent by the United States on reservations or otherwise spent for the benefit of Indians need to be utilized, not only to purchase goods and services but, to the maximum extent feasible, to promote Indian employment and business opportunities on or near Indian reservations;

(4) the awarding of a preference in training, employment, contracting, and subcontracting opportunities has proven to be an exceptionally effective means of ensuring that Indians receive the maximum benefit from Federal funds appropriated on their behalf; and

(5) companies and individuals that seek to take improper advantage of Indian preference opportunities hinder Indian economic development and damage the credibility of Indian preference programs.

(b) DECLARATIONS.—The Congress declares that—

(1) a major national goal of the United States is to ensure that the procurement of goods and services on Indian reservations or otherwise for the benefit of Indians shall be carried out in a manner that achieves the maximum benefit for Indian employment and business development on or near Indian reservations; and

(2) a secondary, but essential goal, is to prevent and prohibit companies from misusing Indian preference programs.

SEC. 3. BUY INDIAN ACT AMENDMENT.

(a) PREFERENCE.—(1) The Secretary of the Interior, where funds are appropriated for the benefit of Indians, shall—

(A) in the award of the contract, including (but not limited to) housing, roads and facilities, construction, office supplies or printing, provide a preference to Indian preference enterprises that provide the greatest economic impact on Indian reservations; and

(B) require that the recipient of the contract—

(i) provide preferences to Indians for training and employment in connection with such contract and require any recipient of a subcontract to provide such preferences, and

(ii) provide a preference to Indian preference enterprises in the awarding of subcontracts under the contract.

(2) When establishing criteria for evaluating proposals for a contract subject to the provisions of this Act, the Secretary shall provide that no less than 2 percent of the evaluation points shall be awarded for each of the criteria set out in paragraph (3) of this subsection that an enterprise, whether Indian- or non-Indian-owned, satisfies or swears, in an affidavit, that it will satisfy in carrying out the contract.

(3) Solely for the purpose of determining which bid is the lowest after the opening of sealed bids on any contract subject to this Act, a bidder, whether Indian or non-Indian, shall be credited with a deduction equal to 2 percent of its bid amount for each of the following factors that the bidder, by means of an affidavit accompanying the bid, swears that he satisfies or will satisfy in carrying out the contract:

(A) the bidder's main office is located on an Indian reservation and at least 50 percent of the dollar value of the contracts of the bidder for each of the previous 2 years has taken place within 300 miles of its main office;

(B) no less than 70 percent of the subcontract dollars the bidder will award under the contract will be awarded to reservation-based, Indian-owned subcontractor as evidenced by a subcontract plan which specifically cites the Indian subcontractor and the subcontract price; and

(C) no fewer than 70 percent of the person hours that will be expended in carrying out the contract will be worked by Indians.

(4) An enterprise which, upon completion of the contract, failed to satisfy any of the factors which it swore it satisfied or would satisfy in its affidavit pursuant to the provisions of this subsection, shall pay a penalty equal to 10 percent of the contract amount. However, the contracting officer may decrease the penalty if the contractor demonstrates, by substantial evidence, that it failed to satisfy the factor or factors because of events that were beyond its control. If the contracting officer has reason to believe that the enterprise's failure to satisfy any of its representations under this subsection resulted from deliberate misrepresentation, the officer shall refer the matter to the appropriate United States Attorney who shall determine whether prosecution under section 1001 of title 18, United States Code, is appropriate.

(5) The contracting officer shall not make an award on any contract subject to this Act until the prospective awardee has submitted an acceptable Indian preference compliance plan. The Plan shall, at a minimum, describe how the awardee intends to maximize the use of qualified Indian workers, subcontractors, and suppliers. The contracting officer shall provide the tribe on whose reservation the contract is to take place, with not less than 2 calendar days during which the tribe may review and comment on the plan prior to acting on it. However, all final determinations regarding the acceptability of a compliance plan shall vest in the contracting officer.

(6)(A) The Secretary of the Interior shall have the authority to provide a preference to Indian preference enterprises in the award of a contract that does not involve funds appropriated for the benefit of Indians by any agency within the Department of the Interior if the Secretary believes the preference will help fulfill the special responsibilities of the Secretary toward Indians.

(B) The Secretary may, in his discretion, establish annual objectives for each Bureau and office within the Department of the Interior for the total amount obligated for contracts and subcontracts entered into with Indian preference enterprises, including mass media, owned and controlled by Indians or Indian tribes, the majority of the earnings of which directly benefit such individuals or tribes.

(7) The preferences provided by reason of this subsection shall have priority over all other Federal procurement preferences.

(8)(A) For the purposes of this section, funds awarded or distributed under a contract are appropriated for the benefit of Indians if—

(i) Indians are the primary beneficiaries of the contract;

(ii) the majority of the activity to be undertaken under the contract takes place within the exterior boundaries of an Indian reservation; or

(iii) the contract is entered into under the Act of April 16, 1934 (25 U.S.C. 452 et seq.), or under title II of the United States Housing Act of 1937 (42 U.S.C. 1437aa et seq.).

(B) The provisions of this section shall not apply to the awarding of contracts under the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b et seq.) by the Department of the Interior, but shall apply to the awarding of subcontracts of such contracts, and to employment and training opportunities under such contracts and subcontracts.

(C) The provisions of this section shall not apply with respect to contracts for the procurement of expert advice and testimony in litigation conducted by the United States as trustee for Indian or Indian tribes.

(D) This section shall apply to all Indian preference enterprises of all Indian tribes.

(E) Nothing in this section shall preclude the Indian Health Service, the Office of Indian Programs in the Department of Housing and Urban Development, the Indian Health Service or the Administration for Native Americans from utilizing, at their discretion, the preferences provided under this section where funds are appropriated for the benefit of Indians.

(9)(A) The Department of the Interior shall implement the preference provided under paragraph (1)(A) by limiting the competition for the awarding of a contract to Indian preference enterprises if—

(i) there is reasonable expectation that offers will be obtained from at least—

(I) 3 responsible offerors in the case of a contract for architectural engineering services, or

(II) 2 responsible offerors in the case of a contract for the procurement of any other services or for the procurement of any product; and

(ii) the contract can be awarded at a fair and reasonable price.

(B) If only one offer is received under a competition restricted to Indian preference enterprises, the Department of the Interior may negotiate an award of the contract at a fair and reasonable price to such offering Indian preference enterprise.

(10)(A) If it is not feasible for the Department of the Interior to limit the competition for the award of a contract under the authority of paragraph (9), and the Department elects to award the contract after full and open competition, the contract shall be awarded to any responsible Indian preference enterprise submitting the lowest bid submitted by a responsible Indian preference enterprise, if that bid does not exceed the bid submitted by any other responsible bidder by more than the percentage prescribed by the Department of the Interior in regulations. If a factor other than price is determinative in the award of a contract, the Department shall utilize a comparable method to provide a preference to Indian preference enterprises in the selection process.

(B) The percentage prescribed in subparagraph (A) that establishes a maximum limitation on the difference between the bids shall not be more than 10 percent.

(11) The preference requirements of this section may be waived only if the responsible officer determines that there are extraordinary circumstances. The determination to make such a waiver may only be made by the Assistant Secretary of the Interior for Indian Affairs.

(12) The Department of the Interior, to the greatest extent feasible, shall advertise the contracts to which this section applies at a date sufficiently in advance of the date of performance must begin under the contract to permit a subsequent open market advertisement of the contract if the contract cannot be awarded under the limited competition provision of this subsection.

(13)(A) Except as provided in subparagraph (B), the preferences required to be provided to enterprises under this section may only be provided to Indian preference enterprises.

(B) The requirements of the Small Business Competitiveness Demonstration Program Act of 1988 (Public Law 100-656) shall not apply to contracts awarded pursuant to this section. The Secretary shall set aside the following contracts for Indian preference enterprises that are either tribally owned or small, as the term "small" is defined by section 3 of the Small Business Act (15 U.S.C. 632):

(i) all construction contracts estimated to cost less than $1,000,000,

(ii) all design contracts estimated to cost less than $100,000, and

(iii) all other contracts as appropriate to ensure Indian-owned businesses have an ample opportunity to develop.

(C)(i) An Indian preference enterprise may benefit from a preference provided under this section only if the enterprise submits to the Department of the Interior or person that is to provide the preference an affidavit certifying that the enterprise continues to meet the requirements necessary for certification by the Secretary as an Indian preference enterprise. The affidavit shall be executed and submitted at the time the contract or subcontract offer is submitted and again at the time the contract or subcontract is awarded.

(ii) The Department of the Interior or any person that receives an affidavit submitted by an enterprise under clause (i) shall submit a copy of the affidavit to any Indian tribe that would be affected by the contract or subcontract for which the enterprise seeks a preference under this section.

(iii) Prior to actual award of a contract the Secretary will verify the accuracy of the successful bidder's preference affidavit by conducting an on-site visit to the enterprise and other due diligence related to the affidavit.

(iv) The Secretary may waive the on-site visit requirement set forth in clause (iii) of this subparagraph if such waiver is in the best interest of the Federal Government.

(D)(i) Any Indian preference enterprise that—

(I) is engaged in construction activities, and

(II) has successfully completed, independently, at least one contract, may enter into joint ventures with other enterprises that are not Indian preference enterprises, provided that such joint venture is certified by the Director of Indian Business Utilization.

(ii) Any Indian preference enterprise that enters into a joint venture under clause (i) shall remain eligible, and the joint venture shall be eligible, for preferences under this section so long as the Indian preference enterprise—

(I) owns and controls at least 51 percent of the joint venture and receives at least 51 percent of the profits of the joint venture,

(II) has successfully completed, independently, at least one contract for each contract

awarded to the joint venture for which a preference is provided under this section,

(III) serves as the general partner for managing the joint ventures, and

(IV) until such joint venture has completed four construction contracts.

(b) For purposes of this section—

(1) The term "Indian preference enterprise" means an Indian enterprise that is certified under subsection (c) of this section as eligible for the preferences provided under this section, and which satisfies one of the following criteria:

(A) an enterprise which—

(i) is engaged in construction (within the meaning of the Indian Self-Determination and Education Assistance Act),

(ii) is entirely owned by one or more Indian tribes, which receive 100 percent of the profits of the enterprise, or

(iii) is entirely owned by one or more Indians, one of whom—

(I) acts as the chief executive officer of the enterprise, and

(II) has the experience and training to manage, and does in fact manage, the day-to-day activities of the enterprise,

(B) an enterprise—

(i) which is engaged in any business other than construction,

(ii) at least 51 percent of which is owned by one or more Indian tribes that receive not less than 51 percent of the profits of the enterprise, or

(C) an enterprise—

(i) which is engaged in any business other than construction,

(ii) at least 51 percent of which is owned by one or more Indians who receive not less than 51 percent of the profits of the enterprise, and

(iii) which has an Indian owner who—

(I) acts as chief executive officer of the enterprise, and

(II) has the experience and training to manage, and does in fact manage, the day-to-day activities of the enterprise.

(2) The terms "Indian" and "Indian tribe" have the respective meaning given to each of such terms under section 4 of the Indian Self-Determination and Education Assistance Act (25 U.S.C.450b).

(3) The term "Secretary" means the Secretary of the Interior.

(4) Except for purposes of paragraph (8)(B) of subsection (a) the term "contract" includes subcontracts.

(5) The term "Indian reservation" has the same meaning given to the term "Reservation" by section 3(d) of the Indian Financing Act of 1974 (25 U.S.C. 1452(d)).

(c)(1) An enterprise seeking to utilize the preference provided for under this Act shall self-certify that it is an Indian preference eligible enterprise. An enterprise shall, when submitting a contract or subcontract bid or proposal for a preference provided by this Act, submit an affidavit swearing that it meets the certification requirements set out by the agency awarding the contract or subcontract. Nothing in this provision shall prohibit the Department of the Interior, when conducting a preaward review, from investigating an enterprise's eligibility for the preferences provided for in this Act or from determining at that stage that an apparent awardee is in fact not eligible for such preferences.

(2) The regulations of the Department of the Interior implementing the provisions of this Act providing for protests to challenge an enterprise's self-certification shall provide that eligible protesters include:

(A) The tribe on whose reservation the contract is to be carried out.

(B) Offerors.

(d)(1) There is established within the Department of the Interior an Office of Indian Business Utilization (hereinafter referred to as the "Office"), which shall be under the supervision and direction of a Director of Indian Business Utilization (hereinafter referred to as the "Director").

(2) The Director shall have such responsibilities as the Secretary deems appropriate and necessary to carry out the duties of the Director under this Act.

(3) The Office of Indian Business Utilization shall—

(A) after consulting with the Secretary, develop and publish a set of criteria to be utilized by Indian enterprises in certifying themselves as eligible for the preferences provided under this section, as well as regulations necessary to implement the provisions of this section, within 180 days after enactment of this section;

(B) be the principal Federal office responsible for overseeing the administration of the provisions of this section;

(C) conduct periodic random investigations of Indian preference enterprises to ensure that those enterprises satisfy the criteria under subsection (c)(1), and are eligible for preferences;

(D) upon request, assist the Department of the Interior agencies to investigate complaints alleging one or more violations of this section or the regulations prescribed under this section, including (but not limited to) allegations that—

(i) an enterprise that does not qualify as an Indian preference enterprise was awarded a contract with the assistance of a preference provided under this section,

(ii) an enterprise misrepresented its status to the Office or a contracting officer, or

(iii) an enterprise is no longer an Indian enterprise or in compliance with the criteria established under this section;

(E) investigate complaints alleging that an Indian tribe is improperly administering preferences required under this section in a manner that exhibits a documented pattern of abuse and seriously jeopardizes the rights of Indians or Indian enterprises;

(F) monitor the implementation of the preference provided by this section and report to Congress as appropriate when the Office has determined that there is a need to amend the provisions of this section;

(G) certify joint ventures pursuant to paragraph (13)(D)(i) of subsection (a); and

(H) have whatever additional responsibilities the Secretary may prescribe.

(4) If, as the result of an investigation, the Department of the Interior determines that any of the conditions described in paragraph (3) of this subsection exists with respect to any enterprise, the Secretary shall—

(A) revoke the certification of such enterprise as an Indian enterprise eligible for the preferences provided under this section;

(B) transmit all information available regarding such conditions to the Inspector General of the Department of the Interior; and

(C) transmit all information to the Director of the Office of Indian Business Utilization.

(5)(A) Any determination by the Department of the Interior to deny any enterprise certification as an Indian enterprise eligible for the preferences provided under this section, or to revoke such certification—

(i) shall constitute a rebuttable presumption that such enterprise is ineligible for such preferences, and

(ii) may be appealed pursuant to the Contract Disputes Act of 1978.

(B) The decision of the contract appeals board under subparagraph (A) shall—

(i) be considered final agency action by that department on petition, and

(ii) be subject to judicial review under chapter 7 of title 5, United States Code.

(6) In addition to the requirements of subsection (c)(1), an Indian tribe may require that firms seeking an award of a contract or subcontract subject to this section that is to take place on the tribe's reservation on which preference provided under this section is to be provided, be precertified by the tribe as being eligible for such preference. Failure to submit a certification application shall disqualify an enterprise from competing. Denial of the certification by the tribe shall not disqualify an enterprise from competing for such contract. After an apparent awardee is selected, if a protest is filed against an enterprise that was certified as eligible by the tribe, or if the apparent awardee was denied certification by the tribe, the Department of the Interior shall make a determination of eligibility within 15 days, giving substantial weight to the tribe's determination certifying or denying certification to the enterprise that is the subject of the protest. The decision of the Department of the Interior shall be final and no appeal shall be permitted.

(e)(1) If—

(A) a contract to which the preferences provided under this section apply is to be performed on a reservation of an Indian tribe; and

(B) the governing body of the Indian tribe has—

(i) established preferences generally comparable to those provided under this section,

(ii) established a tribal office to enforce those preferences, and

(iii) submitted to the Secretary a written request by tribal resolution that this paragraph apply, the Federal agency awarding the contract on that tribe's reservation shall delegate to the tribe responsibility for monitoring the contractor's compliance with that agency's Indian preference requirements.

(2) Enforcement authority under this section shall remain with the Department of the Interior.

(3) The Department of the Interior shall provide an Indian tribe with notification of any contract, the performance of which will occur on such tribe's reservation, no less than 30 days prior to the advertising of the contract, unless waived by the tribe, and shall otherwise work cooperatively with the tribe on enforcement of Indian preferences provided under this section.

(4) Nothing in this section shall be interpreted to preempt tribal authority to independently impose or enforce Indian preference requirements which are not inconsistent or in conflict with this section or other applicable law.

(f) In addition to any other penalties provided under Federal or tribal law, whoever misrepresents the status of an individual as an Indian, or of an enterprise as an Indian enterprise or an Indian preference enterprise, in order to obtain a preference under this section for such person or any other person—

(1) shall be subject to a civil action brought in a tribal court of an Indian tribe affected by the misrepresentation and a civil penalty of not more than $1,000 may be imposed;

(2) shall be liable to the United States for the amount paid under any contract, that was obtained by reason of the preference;

(3) shall be subject to suspension and debarment as specified in subpart 9.4 of part 9

of title 48 of the Code of Federal Regulations (or any successor regulation) on the basis that such misrepresentation indicates a lack of business integrity that seriously and directly affects the present responsibility to perform any contract awarded by the Federal Government; and

(4) shall be ineligible for any preference provided under this section.

(g)(1) The Director may request the Inspector General of the Department of the Interior to conduct an investigation of any contract or subcontract with respect to which preferences are required to be provided under this section.

(2) By no later than the date that is 60 days after the date on which a request is submitted to the Inspector General of the Department of the Interior under paragraph (1), the Inspector General shall submit to the Director a written response to the request detailing the actions, if any, the Inspector General will take with respect to the request.

(h)(1)(A) The Secretary, through the Director, shall establish an Indian Enterprise Bonding Demonstration Program to assist Indian enterprises in obtaining bonds from traditional surety companies.

(B) The bonding program established by this subsection may include assistance to Indian preference enterprises or traditional surety companies, involving, but not limited to—

(i) issues of tribal sovereignty,

(ii) trust status of Indian property on Indian reservations,

(iii) procedures to expedite dispute resolution regarding change orders and unforeseen delays in project completion,

(iv) collateral requirements, and

(v) management and credit experience.

(C) The Secretary may, in connection with the Indian Enterprise Bonding Demonstration Program—

(i) provide advance payments to Indian contractors in amounts to cover the bonding, mobilization, labor, subcontractors, materials, fuel, and special leased equipment for an individual project,

(ii) provide government-furnished materials for use by the Indian contractor, and

(iii) provide other appropriate assistance to the Indian contractor.

(2) The Secretary may, at his discretion, waive the provisions of the Act of August 24, 1935 (40 U.S.C. 270a et seq.), with respect to a contract awarded to an Indian preference enterprise by a Federal agency if—

(A) the award price of the contract is anticipated to be $500,000 or less;

(B) the Indian preference enterprise has been determined to be a responsible contractor capable of performing the contract;

(C) the Federal agency determines that the Indian preference enterprise has been unable to obtain the requisite bonds either through the Indian Enterprise Bonding Demonstration Program or after making good faith application to at least 2 surety firms determined by the Secretary of the Treasury to issue acceptable bonds pursuant to chapter 93 of title 31, United States Code, even with a guarantee provided pursuant to title IV of the Small Business Investment Act of 1958 (15 U.S.C. 692 et seq.); and

(D) the Indian preference enterprise has provided for the protection of persons furnishing materials and labor, in lieu of a payment bond, through a program of direct disbursement from the Federal Government of payments due to such persons from such Indian preference enterprise through an escrow account established and maintained by the Indian preference enterprise at any bank the deposits of which are insured by the Federal Deposit Insurance Corporation.

(3) A waiver granted under paragraph (2) of this subsection shall be granted as a last resort, and is entirely subject to the discretion of the Secretary.

(i)(1) Each agency of the Department of the Interior that issues a contract or subcontract pursuant to this section, the Indian Self-Determination and Education Assistance Act (Public Law 93-638), the Act of April 16, 1934 (40 Stat. 596), or any other Federal law authorizing Federal contracts with Indian organizations or for the benefit of Indians, shall comply with the requirements of the Prompt Payment Act (31 U.S.C. 3901-3906).

(2) The Secretary shall, consistent with the purposes of the Administrative Dispute Resolution Act (104 Stat. 2736 et seq.) provide an alternative dispute resolution procedure that offers a prompt, expert, and inexpensive means of resolving disputes that arise under contracts subject to this Act as an alternative to litigation in Federal courts. Such mechanism shall—

(A) be available on request to any enterprise, and

(B) produce a recommendation for settlement within a reasonable time period from the date the contracting officer receives the enterprise's request.

(3) Any enterprise involved in a dispute pursuant to paragraph (2) of this subsection may request that arbitration be used to resolve a dispute arising under this Act. Such arbitration shall produce a final, binding decision within 45 days from the date the contracting officer receives the enterprise's request.

(j) Section 23 of the Act of June 25, 1910 (25 U.S.C. 47), is repealed.

SEC. 4. CONFORMING AMENDMENTS.

The first paragraph under the subheading "Secretary" that is under the superior heading "I. General Provisions" of the Act of April 30, 1908 (25 U.S.C. 47) is amended by striking out the last proviso.

SEC. 5. CRIMINAL PENALTIES.

Chapter 53 of title 18, United States Code, is amended by adding at the end thereof the following new section:

"SEC. 1171. INDIAN PREFERENCES.

"Any person who, in any document, with the intent to defraud the Government knowingly conceals or fails to disclose any fact, the disclosure of which—

"(1) is required under section 3 of the Indian Business Opportunities Enhancement Act, or any regulations prescribed under such section, or

"(2) is necessary to verify or clarify whether an enterprise or individual is eligible for any preference provided under such section, shall be fined not more than $50,000, or imprisoned not more than 5 years or both.".

SEC. 6. MANPOWER AND JOB TRAINING.

The Secretary of the Interior is authorized to negotiate and enter into cooperative agreements with Indian tribes to engage in cooperative manpower and job training and development programs including the performance of work on lands owned and controlled by the Department of the Interior. Such cooperative agreements may be entered into with any agency or office within the Department of the Interior. In such cooperative agreements, the Secretary of the Interior is authorized to advance or reimburse funds to tribes from any appropriations available for similar kinds of work or by furnishing or sharing materials, supplies, facilities, or equipment without regard to the provisions of section 3324 of title 31, United States Code.

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(a) LOCATION OF FACILITIES.—The Bureau of Indian Affairs and the Indian Health Service shall, in all matters connected with establishing or developing facilities to provide services or assistance to Indians, locate such facilities on tribal lands, unless patently not feasible to do so.

(b) EMPLOYMENT PERFORMANCE.—Any employment opportunities at the facilities described in subsection (a) shall be subject to the employment preferences provided by this Act.

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(a) ESTABLISHMENT.—The Secretary shall enter into contracts with an eligible entity to establish and operate an Indian Enterprise Data Center.

(b) DATA COLLECTION.—The responsibility of the Data Center shall include—

(1) listing Indian enterprises eligible for various Federal minority preference programs,

(2) listing the businesses in which such enterprises are engaged,

(3) listing the experience of such enterprises in fulfilling contract obligations,

(4) listing the capabilities of such enterprises,

(5) verifying preference information and documentation submitted to the Data Center and reporting any discrepancies to the Office of Indian Business Utilization,

(6) listing advance procurement information for the purposes of bid matching contract opportunities to contractor capabilities,

(7) listing known front organizations or fraudulent operators, and

(8) providing whatever additional information the Secretary deems relevant.

(c) INFORMATION DISSEMINATION.—The Data Center annually shall provide a list of Indian enterprises eligible for various minority preferences to the Federal agencies that administer such preferences, and to private entities requesting such list.

(d) ELIGIBLE ENTITIES.—Entities eligible to enter into a contract under subsection (a) shall be tribal, private, public, or educational institutions with experience in Indian business development.

Mr. MITCHELL. Mr. President, I move to reconsider the vote.

Mr. DOLE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

INVESTMENT ADVISER OVERSIGHT ACT

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 534, S. 2266, the Investment Adviser Oversight Act.

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

The legislative clerk read as follows:

A bill (S. 2266) to provide for recovery of costs and supervision and regulation of investment advisers and their activities, 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 Banking, Housing, and Urban Affairs with an amendment to strike out all after the enacting clause and inserting in lieu thereof the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Investment Adviser Oversight Act of 1992".

SEC. 2. FINDINGS.

The Congress finds that—

(1) the activities of investment advisers are of continuing national concern;

(2) increased supervision of investment advisers by the Securities and Exchange Commission (hereafter referred to as the "Commission") is necessary to protect investors from fraud and other illegal conduct;

(3) additional resources are necessary to recover the Commission's costs of an enhanced program for the oversight of investment advisers and their activities, including the costs of registration and inspections; and

(4) because the direct beneficiaries of these activities are investment advisers, it is appropriate for investment advisers to pay fees for such activities.

SEC. 3. REGISTERED INVESTMENT ADVISER FEES.

(a) IN GENERAL.—The Investment Advisers Act of 1940 (15 U.S.C. 80b–1 et seq.) is amended by inserting after section 203 the following new section:

"SEC. 203A. FEES FOR REGISTRANTS AND APPLICANTS.

"(a) IN GENERAL.—The Commission is authorized, in accordance with this section, to collect fees to recover the costs of enhanced efforts to register all persons required to be registered under this title and enhanced supervision and regulation of investment advisers and their activities. Such fees shall be collected and shall be made available only to the extent provided in advance in appropriations Acts. Such fees shall be deposited as an offsetting collection to the Commission's appropriation and shall remain available until expended. The costs covered by such fees shall include the costs of Commission expenses for the registration and inspection of investment advisers and related activities.

"(b) TIME FOR PAYMENT.—

"(1) APPLICANTS.—At the time of filing an application for registration under this title, the applicant shall pay to the Commission the fee directed in advance in appropriations Acts to be collected and specified in subsection (c). No part of such fee shall be refunded to the applicant. The filing of an application for registration under this title shall not be deemed to have occurred unless the application is accompanied by the fee required under this section.

"(2) INVESTMENT ADVISERS.—Each investment adviser whose registration is effective on the last day of its fiscal year shall pay such fee to the Commission not later than 90 days after the end of its fiscal year, or at such other time as the Commission, by rule, shall determine, unless its registration has been withdrawn, canceled, or revoked prior to that date. No part of such fee shall be refunded to the investment adviser.

"(c) SCHEDULE OF FEES.—The amount of fees due from investment advisers in accordance with paragraphs (1) and (2) of subsection (b) shall be determined according to the following schedule:

"Assets under management	*Fee due:*
Less than $10,000,000	*$300*
$10,000,000 or more, but less than $25,000,000.	*$500*
$25,000,000 or more, but less than $50,000,000.	*$1,000*
$50,000,000 or more, but less than $100,000,000.	*$2,500*
$100,000,000 or more, but less than $250,000,000.	*$4,000*
$250,000,000 or more, but less than $500,000,000.	*$5,000*
$500,000,000 or more	*$7,000.*

"(d) SUSPENSION FOR FAILURE TO PAY.—The Commission, by order, may suspend the registration of any investment adviser if it finds (after notice) that such investment adviser has failed to pay when due any fee required by this section. The Commission shall reinstate such registration upon payment of the fee (and any penalties due), if such suspension was based solely on the failure to pay the fee.

"(e) RULEMAKING.—The Commission may adopt such rules and regulations as are necessary to carry out this section.".

(b) EFFECTIVE DATE.—This section shall become effective upon the adoption by the Commission of implementing rules and regulations, under section 203A(e) of the Investment Advisers Act of 1940, as added by subsection (a).

SEC. 4. FACILITIES FOR FILING RECORDS AND REPORTS.

Section 204 of the Investment Advisers Act of 1940 (15 U.S.C. 80b–4) is amended—

(1) by inserting "(a)" after "SEC. 204."; and

(2) by adding at the end the following:

"(b) The Commission, by rule, may require any investment adviser—

"(1) to file with the Commission any fee, application, report, or notice required by this title or by the rules issued under this title through any person designated by the Commission for that purpose; and

"(2) to pay the reasonable costs associated with such filing.".

SEC. 5. BOND REQUIREMENT.

(a) IN GENERAL.—Section 208 of the Investment Advisers Act of 1940 (15 U.S.C. 80b–8) is amended by adding at the end the following:

"(e)(1) The Commission may require, by rules and regulations for the protection of investors, any investment adviser registered under section 203 that—

"(A) is authorized to exercise investment discretion, as defined in section 3(a)(35) of the Securities Exchange Act of 1934, with respect to an account;

"(B) has access to the securities or funds of a client; or

"(C) is an investment adviser of an investment company, as defined in section 2(a)(20) of the Investment Company Act of 1940,

to obtain a bond from a reputable fidelity insurance company against larceny and embezzlement in such reasonable amounts and covering such officers, partners, directors, and employees of the investment adviser as the Commission may prescribe.

"(2) In implementing paragraph (1), the Commission shall consider—

"(A) the degree of risk to client assets that is involved;

"(B) the cost and availability of fidelity bonds;

"(C) existing fidelity bonding requirements; and

"(D) any alternative means to protect client assets.".

SEC. 6. CERTAIN PROHIBITED TRANSACTIONS.

Section 11(a)(1) of the Securities Exchange Act of 1934 (15 U.S.C. 78k(a)(1)) is amended—

(1) in subparagraph (E), by striking "(other than an investment company)";

(2) by striking "and" at the end of subparagraph (G);

(3) by redesignating subparagraph (H) as subparagraph (I); and

(4) by inserting after subparagraph (G) the following new subparagraph:

"(H) any transaction for an account with respect to which such member or an associated person thereof exercises investment discretion if such member—

"(i) has obtained, from the person or persons authorized to transact business for the account, express authorization for such member or associated person to effect such transactions prior to engaging in the practice of effecting such transactions;

"(ii) furnishes the person or persons authorized to transact business for the account with a statement at least annually disclosing the aggregate compensation received by the exchange member in effecting such transactions; and

"(iii) complies with any rules the Commission has prescribed with respect to the requirements of clauses (i) and (ii); and".

AMENDMENT NO. 2946

(Purpose: To require the Securities and Exchange Commission to study the impact on investment advisers of large and small size, and the competitive impact on investment advisers located in non-urban areas, of fidelity bonding requirements)

Mr. DOLE. Mr. President, I send an amendment to the desk on behalf of Mr. GRAMM and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Kansas [Mr. DOLE], for Mr. GRAMM proposes an amendment numbered 2946.

Mr. DOLE. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

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

The amendment is as follows:

On page 12, strike "and" and, on page 13, strike line 2 and insert in lieu thereof the following:

"sets; and

"'(E) the results, findings, and conclusions of the study required by paragraph (3).

"'(3) Before implementing paragraph (1), the Commission shall study (and shall make such study and its conclusions and findings available to the public)—

"'(A) the availability of fidelity bonds, both for large-scale and small-scale investment advisers, and also for investment advisers not located in urban areas; and

"'(B) the impact of the provisions of paragraph (1) on the competitive position of small-scale investment advisers.'.".

Page 9, line 18, strike the word "include" and insert the word "be".

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 2946) was agreed to.

The PRESIDING OFFICER. The bill is open to further amendment. If there be no further amendment to be proposed, the question is on agreeing to the committee amendment in the nature of a substitute, as amended.

The committee amendment in the nature of a substitute, as amended, was agreed to.

The PRESIDING OFFICER. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading, was read the third time, and passed.

The bill is as follows:

S. 2266

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 "Investment Adviser Oversight Act of 1992".

SEC. 2. FINDINGS.

The Congress finds that—

(1) the activities of investment advisers are of continuing national concern;

(2) increased supervision of investment advisers by the Securities and Exchange Commission (hereafter referred to as the "Commission") is necessary to protect investors from fraud and other illegal conduct;

(3) additional resources are necessary to recover the Commission's costs of an enhanced program for the oversight of investment advisers and their activities, including the costs of registration and inspections; and

(4) because the direct beneficiaries of these activities are investment advisers, it is appropriate for investment advisers to pay fees for such activities.

SEC. 3. REGISTERED INVESTMENT ADVISER FEES.

(a) IN GENERAL.—The Investment Advisers Act of 1940 (15 U.S.C. 80b–1 et seq.) is amended by inserting after section 203 the following new section:

"SEC. 203A. FEES FOR REGISTRANTS AND APPLICANTS.

"(a) IN GENERAL.—The Commission is authorized, in accordance with this section, to collect fees to recover the costs of enhanced efforts to register all persons required to be registered under this title and enhanced supervision and regulation of investment advisers and their activities. Such fees shall be collected and shall be made available only to the extent provided in advance in appropriations Acts. Such fees shall be deposited as an offsetting collection to the Commission's appropriation and shall remain available until expended. The costs covered by such fees shall be the costs of Commission expenses for the registration and inspection of investment advisers and related activities.

"(b) TIME FOR PAYMENT.—

"(1) APPLICANTS.—At the time of filing an application for registration under this title, the applicant shall pay to the Commission the fee directed in advance in appropriations Acts to be collected and specified in subsection (c). No part of such fee shall be refunded to the applicant. The filing of an application for registration under this title shall not be deemed to have occurred unless the application is accompanied by the fee required under this section.

"(2) INVESTMENT ADVISERS.—Each investment adviser whose registration is effective on the last day of its fiscal year shall pay such fee to the Commission not later than 90 days after the end of its fiscal year, or at such other time as the Commission, by rule, shall determine, unless its registration has been withdrawn, canceled, or revoked prior to that date. No part of such fee shall be refunded to the investment adviser.

"(c) SCHEDULE OF FEES.—The amount of fees due from investment advisers in accordance with paragraphs (1) and (2) of subsection (b) shall be determined according to the following schedule:

"Assets under management	Fee due:
Less than $10,000,000	$300
$10,000,000 or more, but less than $25,000,000.	$500
$25,000,000 or more, but less than $50,000,000.	$1,000
$50,000,000 or more, but less than $100,000,000.	$2,500
$100,000,000 or more, but less than $250,000,000.	$4,000
$250,000,000 or more, but less than $500,000,000.	$5,000
$500,000,000 or more	$7,000.

"(d) SUSPENSION FOR FAILURE TO PAY.—The Commission, by order, may suspend the registration of any investment adviser if it finds (after notice) that such investment adviser has failed to pay when due any fee required by this section. The Commission shall reinstate such registration upon payment of the fee (and any penalties due), if such suspension was based solely on the failure to pay the fee.

"(e) RULEMAKING.—The Commission may adopt such rules and regulations as are necessary to carry out this section.".

(b) EFFECTIVE DATE.—This section shall become effective upon the adoption by the Commission of implementing rules and regulations, under section 203A(e) of the Investment Advisers Act of 1940, as added by subsection (a).

SEC. 4. FACILITIES FOR FILING RECORDS AND REPORTS.

Section 204 of the Investment Advisers Act of 1940 (15 U.S.C. 80b–4) is amended—

(1) by inserting "(a)" after "SEC. 204."; and

(2) by adding at the end the following:

"(b) The Commission, by rule, may require any investment adviser—

"(1) to file with the Commission any fee, application, report, or notice required by this title or by the rules issued under this title through any person designated by the Commission for that purpose; and

"(2) to pay the reasonable costs associated with such filing.".

SEC. 5. BOND REQUIREMENT.

(a) IN GENERAL.—Section 208 of the Investment Advisers Act of 1940 (15 U.S.C. 80b–8) is amended by adding at the end the following:

"(e)(1) The Commission may require, by rules and regulations for the protection of investors, any investment adviser registered under section 203 that—

"(A) is authorized to exercise investment discretion, as defined in section 3(a)(35) of the Securities Exchange Act of 1934, with respect to an account;

"(B) has access to the securities or funds of a client; or

"(C) is an investment adviser of an investment company, as defined in section 2(a)(20) of the Investment Company Act of 1940,

to obtain a bond from a reputable fidelity insurance company against larceny and embezzlement in such reasonable amounts and covering such officers, partners, directors, and employees of the investment adviser as the Commission may prescribe.

"(2) In implementing paragraph (1), the Commission shall consider—

"(A) the degree of risk to client assets that is involved;

"(B) the cost and availability of fidelity bonds;

"(C) existing fidelity bonding requirements;

"(D) any alternative means to protect client assets; and

"(E) the results, findings, and conclusions of the study required by paragraph (3).

"(3) Before implementing paragraph (1), the Commission shall study (and shall make such study and its conclusions and findings available to the public)—

"(A) the availability of fidelity bonds, both for large-scale and small-scale investment advisers, and also for investment advisers not located in urban areas; and

"(B) the impact of the provisions of paragraph (1) on the competitive position of small-scale investment advisers.".

SEC. 6. CERTAIN PROHIBITED TRANSACTIONS.

Section 11(a)(1) of the Securities Exchange Act of 1934 (15 U.S.C. 78k(a)(1)) is amended—

(1) in subparagraph (E), by striking "(other than an investment company)";

(2) by striking "and" at the end of subparagraph (G);

(3) by redesignating subparagraph (H) as subparagraph (I); and

(4) by inserting after subparagraph (G) the following new subparagraph:

"(H) any transaction for an account with respect to which such member or an associated person thereof exercises investment discretion if such member—

"(i) has obtained, from the person or persons authorized to transact business for the account, express authorization for such member or associated person to effect such transactions prior to engaging in the practice of effecting such transactions;

"(ii) furnishes the person or persons authorized to transact business for the account with a statement at least annually disclosing the aggregate compensation received by the exchange member in effecting such transactions; and

"(iii) complies with any rules the Commission has prescribed with respect to the requirements of clauses (i) and (ii); and".

Mr. MITCHELL. Mr. President, I move to reconsider the vote.

Mr. DOLE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. RIEGLE. I am pleased that the Senate has today passed an important piece of securities legislation, the Investment Adviser Oversight Act of 1992. The Banking Committee passed this bill on May 21, 1992, by a vote of 18 to 2.

Money managers occupy an increasing share of the financial services market. Between 1981 and 1991, the number of investment advisers registered with the Securities and Exchange Commission increased from 4,580 to 17,500. Assets under management increased from $440 billion to $5.3 trillion—an increase of more than 1,200 percent. This trend can be expected to continue, given the relatively low interest rates currently being paid on FDIC-insured deposits.

During this same period, the SEC's investment adviser examination staff grew by just 10 examiners, from 36 to 46. While the SEC inspects the 500 largest investment advisers once every 3 years, inspections overall average once every 30 years.

SEC Chairman Breeden testified that the SEC's current investment adviser inspection program is inadequate and recommended that the current $150 one-time registration fee be changed to an annual fee, based upon assets under management.

The Investment Advisers Oversight Act strengthens oversight of registered investment advisers. The SEC proposed it, and it is supported by investment industry groups. The bill increases fees

on investment advisers to pay for enhanced oversight. Registration fees will be increased from the current $150 to at least $300. Fees will be determined on a sliding scale based on assets under management, to a maximum of $7,000 for advisers with $500 million or more under management. Registered investment advisers will also pay an annual fee, determined on the same sliding scale based on assets under management, from $300 to $7,000. With the money raised, the SEC will be able to inspect advisers on average once every 5 years.

The bill further protects investors by providing the SEC with authority to require investment advisers that exercise investment discretion, have access to client securities or funds, or advise investment companies, to post fidelity bonds. The bond would protect clients defrauded through larceny or embezzlement.

As the Investment Company Institute stated in a letter to me dated May 19, 1992, "It is essential for the protection of investors, as well as for the health and the growth of the investment advisory industry, that Congress act to facilitate the increased regulation of investment advisers.

In the end, the investing public loses when regulation is inadequate or sporadic."

The bill also includes a provision originally introduced by Senator KERRY, amending section 11(a) of the Securities Exchange Act. Section 11(a) requires a Stock Exchange member to use an independent floor broker to execute trades for accounts managed by an affiliate. The SEC has concluded section 11(a) increases costs needlessly, as other provisions protect customers.

I commend the chairman of the Securities Subcommittee, Senator DODD, for his hard work on this bill. I hope the House of Representatives will pass its version of this legislation promptly upon our return in September, so it can quickly be enacted into law.

Mr. DODD. Mr. President, S. 2266, the Investment Adviser Oversight Act of 1992, addresses the very serious inadequacies in the SEC's current inspection program for investment advisers. It establishes a fee structure for registered investment advisers and provides that those fees will be used as offsetting collections to fund an increase in the SEC's investment adviser inspection staff. In other words, this legislation will put more cops on the beat to protect investors, at no additional cost to taxpayers. The industry has agreed to foot the bill.

This legislation also authorizes the SEC to write rules to require investment advisers, under certain circumstances, to obtain fidelity bonds, in order to protect customer assets. The amendment to the bill offered by the ranking Republican member of the Securities Subcommittee, Senator GRAMM, will ensure that the SEC studies the cost and availability of bonds for investment advisers of all sizes, before imposing this requirement.

The bill has two other provisions that we believe will result in costs savings for the investment advisory and investment company industries and which, we also believe, will result in cost savings for investors. One of these provisions would authorize the SEC to develop with the States one-stop filing for advisers. The other provision would permit members of a registered securities exchange to execute transactions on the exchange for managed accounts—instead of having to use another broker and pay additional fees. Based upon studies conducted by the Securities Industry Association and by the New York Stock Exchange, passage of this provision could result in savings of hundreds of millions of dollars for investors.

Mr. President, I believe this legislation is essential to protect the millions of Americans who rely upon investment advisers for help in making some of their most important financial decisions. We simply must get more cops on the beat, in order to ensure that this growing industry treats customers honestly and fairly.

In the past decade, the industry has grown dramatically; SEC staff resources have not. From 1981 to 1991, the number of advisers registered with the SEC increased from 4,500 over 17,500, and the assets under their management soared from $440 billion to $5.3 trillion—an increase of more than 1,100 percent, representing more than twice the amount of funds deposited in U.S. commercial banks.

But, during the past decade, the SEC examination staff increased from 36 to just 46 examiners. As a consequence, the SEC inspects investment advisers, on average, once every 25 to 30 years. This level of oversight is wholly inadequate to protect investors.

The House and Senate, the SEC and the industry have studied this problem for more than 5 years. The Investment Adviser Oversight Act reflects the belief by virtually everyone who has looked at this problem that we simply have got to provide more resources for the SEC to oversee this industry.

Last month, the Senate passed, as part of the Senate, Commerce, Justice appropriations bill, an amendment I offered which would implement the funding portion of S. 2266, subject to passage of this authorization. Passage of this bill is necessary in order to fully implement the provisions.

If we pass this measure, we finally will have more cops on the beat. The SEC will be able to inspect investment advisers at least once every 3 to 5 years, instead of the current 29 to 30-year inspection cycle. Fidelity bonding to protect customer assets will be provided, where appropriate. And investors who rely upon investment advisers for some of the most important financial decisions they make can be assured that, at a minimum, someone is watching them and making every effort to protect the investors with whom they deal.

Mr. President, I want to thank a number of my colleagues for their support in developing this legislation and for their efforts in achieving Senate passage of the bill. In particular, I want to thank Chairman RIEGLE for his support, and thank Senator GARN and Senator GRAMM for their willingness to work with me in addressing concerns they had in the original bill in order to ensure its passage today.

ADDITIONAL BANKRUPTCY JUDGES

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of H.R. 5688, a bill to authorize the appointment of additional bankruptcy judges, just received from the House; that the bill be deemed read a third time, passed, and the motion to reconsider laid upon the table.

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

So the bill (H.R. 5688) was deemed read a third time, and passed.

Mr. THURMOND. Mr. President, I am pleased that the Senate is considering today H.R. 5688, a bill to authorize the creation of 35 new bankruptcy judgeships. Senator DECONCINI and I introduced a similar bill, which passed the Senate last year, because these judgeships are vitally necessary to reduce the heavy caseload currently existing in many States today.

The rising number of bankruptcy filings across the country has created a heavy burden on existing bankruptcy judges. The current economic problems of our country have forced bankruptcy filings to soar to record numbers and have consequently caused bankruptcy courts to become increasingly overloaded. Each district included in H.R. 5688 has clearly demonstrated its need for the creation of new judgeships.

The bill we are considering today will also establish a review provision to ensure that all authorized bankruptcy judgeships are necessary. This provision provides that every 2 years, the Judicial Conference will conduct a comprehensive review of all judicial districts to assess the need for the judgeships. The Conference will then report to Congress its findings and recommendations regarding the elimination of any judgeship positions. I firmly believe that this provision is essential as it will ensure that all authorized bankruptcy judgeships are absolutely necessary and that judicial resources are utilized in the most efficient manner.

Out of the 35 new judgeships created under this bill, 10 have been designated

as "temporary judgeships." The temporary provision provides that the first vacancy in each of these districts resulting from death, retirement, resignation, and removal of a bankruptcy judge, occurring 5 years or more after date of enactment of this bill, shall not be filled. If the vacancy results from the expiration of a bankruptcy judge's term, that judge shall be eligible for reappointment.

Mr. President, I believe that the creation of new judgeships will greatly assist the efficiency of the bankruptcy system and will ensure a more balanced caseload for bankruptcy judges. I was disappointed that this bill designated a temporary judgeship for my home State of South Carolina, rather than a permanent judgeship as recommended by the Judicial Conference of the United States. However, because I recognize the urgent need for putting new bankruptcy judges to work to relieve the current burdens on the bankruptcy system, I will not deter passage of this bill today. Therefore, I urge my colleagues to support this important legislation.

Mr. SPECTER. Mr. President, I am very pleased to see us act to adopt H.R. 5688, legislation creating 35 new permanent and temporary bankruptcy judgeships, including 2 in the eastern district of Pennsylvania. Over a year ago, the Senate passed S. 646 to create an additional 32 bankruptcy judges throughout the country. Reflecting legislation I had introduced, S. 1375, two of these new positions in the Senate bill were for the eastern district of Pennsylvania.

These additional positions in the eastern district of Pennsylvania are desperately needed, as the Judicial Conference has acknowledged by recommending the creation of both new positions for the eastern district. There are currently three bankruptcy judges in the eastern district. There have been three judges in the district since 1961. While the number of judges has remained the same, new bankruptcy filings have increased roughly 2,200 percent in the past 30 years, going from 510 new bankruptcies in 1961 to 11,716 in 1991. Two new judges will greatly ease the burdens on the present judges and permit better service to the bar and public through the speedier resolution of claims. In light of the need for the two additional judges in the eastern district, I have consistently expressed my desire that legislation be enacted expeditiously to create the new judgeships.

Earlier this year, I wrote to the distinguished chairman of the House Judiciary Committee to urge that his committee act promptly to report out legislation creating new bankruptcy judgeships, including specifically the two new positions in the eastern district of Pennsylvania, and that the House then proceed to pass such legislation expeditiously. I am very pleased that the House has now acted and that its bill that we adopt today also contains the two new permanent bankruptcy judgeships for the eastern district of Pennsylvania that I have been seeking.

While there are some unresolved issues between the Senate-passed bill and the House-passed bill we are adopting today with respect to their approaches to reviewing and addressing the needs of the judiciary for bankruptcy judges in the future, I am very pleased that we have put these differences behind us and are acting expeditiously to adopt this legislation and send it to the President for his signature. This bill will make a real difference to thousands of people in the eastern district of Pennsylvania and to millions across the country who rely on the bankruptcy courts to help them resolve their problems.

REGARDING ISRAELI ELECTIONS

Mr. MITCHELL. I ask unanimous consent that the Senate proceed to the immediate consideration of House Concurrent Resolution 355, a concurrent resolution regarding Israeli elections, just received from the House.

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

The legislative clerk read as follows:

A concurrent resolution (H. Con. Res. 355) concerning Israel's recent elections and the visit by Israeli Prime Minister Yitzhak Rabin to the United States.

The PRESIDING OFFICER. Are there amendments to the concurrent resolution?

The question is on agreeing to the concurrent resolution.

The concurrent resolution (H. Con. Res. 355) was agreed to.

The preamble was agreed to.

Mr. MITCHELL. Mr. President, I move to reconsider the vote.

Mr. DOLE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AUTHORIZATION OF DOCUMENTARY PRODUCTION

Mr. MITCHELL. Mr. President, on behalf of myself and the distinguished Republican leader, Senator DOLE, I send to the desk a resolution on authorization of documentary production and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

A resolution (S. Res. 335) to authorize documentary production in United States of America v. Caspar W. Weinberger.

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

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

Mr. MITCHELL. Mr. President, counsel for the defendant in the case of United States of America versus Caspar W. Weinberger has requested the Select Committee on Intelligence to provide copies of records within its custody collected by the Select Committee on Secret Military Assistance to Iran and the Nicaraguan Opposition during its investigation in 1987 for use in connection with the preparation of the defense of the charges in that case.

In keeping with the Senate's usual practice in cases of this kind, this resolution authorizes the chairman and vice chairman of the Select Committee on Intelligence, acting jointly, to produce records requested by Mr. Weinberger's counsel dealing with the Iran/Contra matter.

The PRESIDING OFFICER. Without objection, the resolution and the preamble are agreed to.

So the resolution was agreed to.

The preamble was agreed to.

The resolution (S. Res. 335), with its preamble, reads as follows:

S. RES. 335

Whereas, in the case of United States of America v. Caspar W. Weinberger, Crim. No. 92-0235-TFH, pending in the United States District Court for the District of Columbia, counsel for the defendant has requested the production of documents from the Select Committee on Intelligence;

Whereas, by the privileges of the Senate of the United States and rule XI of the Standing Rules of the Senate, no evidence under the control or in the possession of the Senate can, by administrative or judicial process, be taken from such control or possession but by permission of the Senate;

Whereas, when it appears that evidence under the control or in the possession of the Senate is needed for the promotion of justice, the Senate will take such action as will promote the ends of justice consistent with the privileges of the Senate: Now, therefore, be it

Resolved, That the chairman and vice chairman of the Select Committee on Intelligence, acting jointly, are authorized to produce documents in the case of United States of America v. Caspar W. Weinberger, except concerning matters for which a privilege should be asserted.

Mr. MITCHELL. Mr. President, I move to reconsider the vote by which the resolution was agreed to.

Mr. DOLE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

EXPORT ENHANCEMENT ACT

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar No. 544, S. 2864, the Export-Import Bank authorization bill.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

A bill (S. 2864) to reauthorize the Export-Import Bank Act of 1945, to encourage export promotion, 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 was reported from the Committee on Banking, Housing, and Urban Affairs with an amendment to strike out all after the enacting clause and inserting in lieu thereof the following:

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Export Enhancement Act of 1992".

(b) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

Sec. 1. Short title; table of contents.

TITLE I—REAUTHORIZATION OF EXPORT-IMPORT BANK

Sec. 101. Extension of Export-Import Bank authorization.
Sec. 102. Tied aid credit fund extension.
Sec. 103. Use of loan guarantees.
Sec. 104. Expanded use of bank guarantees.
Sec. 105. Environmental policy.
Sec. 106. Appointment and compensation of Bank personnel.
Sec. 107. Insurance-related business stemming from Bank activities.
Sec. 108. Export-Import Bank debt reduction.
Sec. 109. Amendments relating to outdated and obsolete provisions.

TITLE II—EXPORT PROMOTION

Sec. 201. Trade promotion coordinating committee.
Sec. 202. One-stop shop.
Sec. 203. US&FCS-Ezimbank cooperation.
Sec. 204. United States and foreign commercial service.
Sec. 205. Report on export policy.
Sec. 206. Export promotion authorization.

TITLE III—MISCELLANEOUS PROVISIONS

Sec. 301. International Emergency Economic Powers Act.
Sec. 302. John Heinz competetive excellence award.

TITLE I—REAUTHORIZATION OF EXPORT-IMPORT BANK

SEC. 101. EXTENSION OF EXPORT-IMPORT BANK AUTHORIZATION.

Section 8 of the Export-Import Bank Act of 1945 (12 U.S.C. 635f) is amended by striking "September 30, 1992," and inserting "September 30, 1997,".

SEC. 102. TIED AID CREDIT FUND EXTENSION.

(a) IN GENERAL.—Section 15(c)(2) of the Export-Import Bank Act of 1945 (12 U.S.C. 635i-3(c)(2)) is amended by striking "fiscal year 1992" and inserting "September 30, 1995".

(b) AUTHORIZATION OF APPROPRIATIONS.—Section 15(e) of the Export-Import Bank Act of 1945 (12 U.S.C. 635i-3(e)) is amended to read as follows:

"(e) AUTHORIZATION.—There are authorized to be appropriated to the Fund $500,000,000 for each of fiscal years 1993, 1994, and 1995. Such sums shall remain available until expended.".

(c) TECHNICAL AND CONFORMING AMENDMENTS.—Section 15 of the Export-Import Bank Act of 1945 (12 U.S.C. 635i-3) is amended—

(1) by striking "predacious" each place such term appears and inserting "predatory";

(2) in subsection (a)(5)—

(A) by striking "temporary"; and

(B) by striking "existing arrangement" and inserting "existing Arrangement";

(3) in subsection (b)(1)—

(A) by striking "To carry out the purposes of subsection (a)(5), the" and inserting "The";

(B) in subparagraph (A), by inserting before the semicolon the following: "and with special attention to matching tied aid and partially untied aid credits extended by other governments—

"(i) in violation of the Arrangement; or

"(ii) in cases in which the Bank determines that United States trade or economic interests justify the matching of tied aid credits extended in compliance with the Arrangement, including grandfathered cases"; and

(C) in subparagraph (B), by striking "partially untied aid credits; and" and all that follows through the end of clause (ii), and inserting the following: "partially untied aid credits, and impedes negotiations or violates agreements on tied aid to eliminate the use of such credits for commercial purposes; or

"(ii) engages in predatory financing practices that seek to circumvent international agreements on tied aid; or";

(4) in subsection (b)(2)(B), by inserting "United States exporters and" after "cooperation with";

(5) in subsection (b)(4), by adding at the end the following: "The Bank shall also request and take into consideration the views of the private sector on principal sectors and key markets of countries described in paragraph (1)(B).";

(6) by amending paragraphs (1) and (2) of subsection (g) to read as follows:

"(1) IN GENERAL.—On or before October 25, 1992, and every 6 months thereafter, the Bank, in consultation with the Secretary, shall submit a report on tied aid credits to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Banking, Finance and Urban Affairs of the House of Representatives.

"(2) CONTENTS OF REPORTS.—Each report required under paragraph (1) shall contain a description of—

"(A) the implementation of the Arrangement restricting tied aid and partially untied aid credits for commercial purposes, including the operation of notification and consultation procedures;

"(B) all principal offers of tied aid credit financing by foreign countries during the previous 6-month period, including all offers notified by countries participating in the Arrangement, and in particular—

"(i) offers grandfathered under the Arrangement; and

"(ii) notifications of exceptions under the Arrangement;

"(C) any use by the Bank of the Tied Aid Credit Fund to match specific offers, including those that are grandfathered or exceptions under the Arrangement; and

"(D) other actions by the United States Government to combat predatory financing practices by foreign governments, including additional negotiations among participating governments in the Arrangement."; and

(7) in subsection (h)—

(A) by striking "For the purposes of this section—" and inserting "For purposes of this section, the following definitions shall apply:";

(B) in paragraph (3), by inserting before the period "and all addenda and amendments thereto"; and

(C) by adding at the end the following new paragraph:

"(6) The term 'grandfathered' refers to projects under the Arrangement for which—

"(A) financing offers were made on or before February 15, 1992; or

"(B) financing offers extended for subloans under grandfathered lines of credit were made on or before August 15, 1992, or, in the case of Mexico, on or before December 31, 1992.".

SEC. 103. USE OF LOAN GUARANTEES.

Section 2(b)(1)(B) of the Export-Import Bank Act of 1945 (12 U.S.C. 635(b)(1)(B)) is amended in the fifth sentence by inserting after the first semicolon the following: "that the Bank, in determining whether to provide support for a transaction under the loan, guarantee, or insurance program, or any combination thereof, shall consider the need to involve private capital in support of United States exports as well as the cost of the transaction as calculated in accordance with the requirements of the Federal Credit Reform Act of 1990;".

SEC. 104. EXPANDED USE OF BANK GUARANTEES.

Section 2(c)(3) of the Export-Import Bank Act of 1945 (12 U.S.C. 635(c)(3)) is amended—

(1) by striking "With" and inserting the following: "TRANSFERABILITY OF GUARANTEES AND INSURANCE; GUARANTEE COVERAGE.—

"(A) TRANSFERABILITY.—With"; and

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

"(B) GUARANTEE COVERAGE.—For the guarantee program covered by this subsection, the Bank shall provide up to 100 percent coverage of the interest and principal if the Board determines such coverage to be necessary to ensure acceptance of Bank guarantees by United States financial institutions for any transaction in any export market in which the Bank is open for business.".

SEC. 105. ENVIRONMENTAL POLICY.

The Export-Import Bank Act of 1945 (12 U.S.C. 635 et seq.) is amended by adding at the end the following new section:

"SEC. 17. ENVIRONMENTAL POLICY AND PROCEDURES.

"(a) ENVIRONMENTAL EFFECTS CONSIDERATION.—

"(1) IN GENERAL.—Consistent with the objectives of section 2(b)(1)(A), the Bank shall establish procedures to take into account the potential beneficial and adverse environmental effects of goods and services which it may be asked to support under its direct lending and guarantee programs. Such procedures shall apply to any transaction involving a project—

"(A) for which long-term support of $10,000,000 or more is requested from the Bank;

"(B) for which the Bank's support would be critical to its implementation; and

"(C) which may have significant environmental effects upon the global commons or third countries not participating in the project or may produce a principal product, emission, or effluent that is prohibited or strictly regulated by Federal law.

"(2) AUTHORITY TO WITHHOLD FINANCING.—The procedures established under paragraph (1) shall permit the Board of Directors, in its judgment, to withhold financing for environmental reasons or to approve financing after considering the potential environmental effects of a project.

"(b) USE OF BANK PROGRAMS TO ENCOURAGE CERTAIN EXPORTS.—The Bank shall encourage the use of its programs to support the export of goods and services that have beneficial effects on the environment or mitigate potential adverse environmental effects. The Board of Directors shall name an officer of the Bank to advise the Board on ways that the Bank's programs can be used to support the export of such goods and services. The officer shall also act as liaison between the Bank and other Government agencies with respect to overall United States Government policy on the environment.

"(c) INCLUSION IN REPORT TO CONGRESS.—The Bank shall provide in its annual report to the Congress a summary of its activities under subsections (a) and (b).

"(d) INTERPRETATION.—Nothing in this section shall be construed to create any cause of action.".

SEC. 106. APPOINTMENT AND COMPENSATION OF BANK PERSONNEL.

Section 3(c) of the Export-Import Bank Act of 1945 (12 U.S.C. 635a(c)) is amended—

(1) by striking paragraph (3);

(2) by redesignating paragraphs (4) through (8) as paragraphs (3) through (7), respectively; and

(3) by adding at the end the following new paragraph:

"(8) PERSONNEL.—

"(A) APPOINTMENT AND COMPENSATION.—The Board of Directors shall fix the compensation of, and appoint and direct, employees of the Bank other than the directors. The Board may set and adjust rates of basic pay for such employees without regard to the provisions of chapter 51, or subchapter III of chapter 53, of title 5, United States Code. The Board of Directors may provide additional compensation and benefits to employees of the Bank if the same type of compensation or benefits are then being provided by any Federal bank regulatory agency.

"(B) COMPARABILITY.—In setting and adjusting the total amount of compensation and benefits for employees of the Bank, the Board of Directors shall, in consultation with the Federal bank regulatory agencies, seek to maintain comparability with the total amount of compensation and benefits provided by such agencies to employees of such agencies, except that the Board shall not apply this subparagraph to reduce the total amount of compensation and benefits provided to any employee as of the date of enactment of this paragraph.

"(C) FUNDING.—The salaries, expenses, and benefits of the officers and employees of the Bank shall be paid from earnings of the Bank and repayments of loans and from borrowings.

"(D) DEFINITION.—For purposes of this paragraph, the term 'Federal bank regulatory agencies' means—

"(i) the Office of the Comptroller of the Currency;

"(ii) the Federal Deposit Insurance Corporation;

"(iii) the Board of Governors of the Federal Reserve System;

"(iv) the Office of Thrift Supervision; and

"(v) the National Credit Union Administration.".

SEC. 107. INSURANCE-RELATED BUSINESS STEMMING FROM BANK ACTIVITIES.

Section 2(d) of the Export-Import Bank Act of 1945 (12 U.S.C. 635(d)) is amended—

(1) by striking paragraphs (2) and (3) and inserting after paragraph (1) the following:

"(2) In the case of any long-term loan or guarantee of not less than $10,000,000, the Bank shall seek to ensure that United States insurance companies are accorded a fair and open competitive opportunity to provide insurance against risk of loss in connection with any transaction with respect to which such loan or guarantee is provided.

"(3) In any case in which the Bank becomes aware that a fair and open competitive opportunity is not available to any United States insurance company in a foreign country with respect to which the Bank is considering a loan or guarantee, the Bank—

"(A) may approve or deny the loan or guarantee after considering whether such action would be likely to achieve competitive access for United States insurance companies; and

"(B) shall forward information regarding any foreign country that denies United States insurance companies a fair and open competitive opportunity to the Secretary of Commerce and to the United States Trade Representative for consideration of a recommendation to the President that access by such country to export credit of the United States should be restricted.

"(4) In any case in which the Bank approves a loan or guarantee notwithstanding information regarding denial of competitive opportunities for United States insurance companies, the Bank shall include notice of such approval and the reason for such approval in the report on competition in officially-supported export credit required under subsection (b)(1)(A).

"(5) For purposes of this section—

"(A) the term 'United States insurance company'—

"(i) includes an individual, partnership, corporation, holding company, or other legal entity which is authorized (or in the case of a holding company, subsidiaries of which are authorized) by a State to engage in the business of issuing insurance contracts or reinsuring the risk underwritten by insurance companies; and

"(ii) includes foreign operations, branches, agencies, subsidiaries, affiliates, or joint ventures of any entity described in clause (i); and

"(B) the term 'fair and open competitive opportunity' means, with respect to the provision of insurance by a United States insurance company, that the company—

"(i) has received notice of the opportunity to provide such insurance; and

"(ii) has been evaluated for such opportunity on a nondiscriminatory basis.".

SEC. 108. EXPORT-IMPORT BANK DEBT REDUCTION.

The Export-Import Bank Act of 1945 (12 U.S.C. 635 et seq.) is amended—

(1) by inserting after the first section the following: "**TITLE I—GENERAL PROVISIONS**"; and

(2) by adding at the end the following:

"TITLE II—ENTERPRISE FOR THE AMERICAS INITIATIVE

"SEC. 51. PURPOSE.

"The purpose of this title is to encourage and support improvement in the lives of the people of Latin America and the Caribbean through market-oriented reforms and economic growth with interrelated actions to promote debt reduction, investment reforms, community based conservation and sustainable use of the environment. The Facility will support these objectives through administration of debt reduction operations under this title for those countries with democratically elected governments that meet investment reforms and other policy conditions.

"SEC. 52. DEFINITIONS.

"For purposes of this title, the following definitions shall apply:

"(1) ELIGIBLE COUNTRY.—The term 'eligible country' means a country designated by the President in accordance with section 53.

"(2) ELIGIBLE PURCHASER.—The term 'eligible purchaser' means a purchaser to whom a loan may be sold pursuant to this title upon the presentation of plans satisfactory to the President for using the loan for the purpose of engaging in debt-for-equity swaps, debt-for-development swaps, or debt-for-nature swaps.

"(3) FACILITY.—The term 'Facility' means the entity established in the Department of the Treasury by section 601 of the Agricultural Trade Development and Assistance Act of 1954.

"(4) IMF.—The term 'IMF' means the International Monetary Fund.

"SEC. 53. ELIGIBILITY FOR BENEFITS UNDER THE FACILITY.

"(a) REQUIREMENTS.—To be eligible for benefits from the Facility under this title, a country must—

"(1) be a Latin American or Caribbean country;

"(2) have in effect, have received approval for, or, as appropriate in exceptional circumstances, be making significant progress toward—

"(A) an IMF standby arrangement, extended IMF arrangement, or an arrangement under the structural adjustment facility or enhanced structural adjustment facility, or in exceptional circumstances, an IMF monitored program or its equivalent; and

"(B) as appropriate, structural or sectoral adjustment loans from the International Bank for Reconstruction and Development or the International Development Association;

"(3) have put in place major investment reforms in conjunction with an Inter-American Development Bank loan or otherwise be implementing, or making significant progress toward, an open investment regime; and

"(4) if appropriate, have agreed with its commercial bank lenders on a satisfactory financing program, including, as appropriate, debt or debt service reduction.

"(b) ELIGIBILITY DETERMINATIONS.—The President shall determine whether a country is an eligible country for purposes of subsection (a).

"SEC. 54. LOANS ELIGIBLE FOR SALE, REDUCTION, OR CANCELLATION.

"(a) AUTHORITY TO SELL, REDUCE, OR CANCEL CERTAIN LOANS.—Notwithstanding any other provision of law, the President may, in accordance with this title—

"(1) sell to any eligible purchaser any loan or portion thereof made to any eligible country or any agency thereof, before January 1, 1991, pursuant to this Act; and

"(2) on receipt of payment from the eligible purchaser, reduce or cancel such loan or portion thereof,

only for the purpose of facilitating debt-for-equity swaps, debt-for-development swaps, or debt-for-nature swaps, if the sale, reduction, or cancellation would not contravene any term or condition of any prior agreement relating to such loan.

"(b) TERMS AND CONDITIONS.—Notwithstanding any other provision of law other than those contained in this title, the President shall establish the terms and conditions under which loans may be sold, reduced, or canceled pursuant to this title.

"(c) TREATMENT UNDER SECURITIES LAWS.—Any sale made pursuant to this title by the Bank of a loan (including any interest therein) to an eligible purchaser, as defined in section 52, shall be a transaction not required to be registered pursuant to section 5 of the Securities Act of 1933. For purposes of the Securities Act of 1933, the Bank shall not be deemed to be an issuer or underwriter with respect to any subsequent sale or other disposition of such loan (include any interest therein) or any security received by an eligible purchaser pursuant to any debt-for-equity swap, debt-for-development swap, or debt-for-nature swap.

"(d) ADMINISTRATION.—The Facility shall notify the Bank of purchasers the President has determined to be eligible, as defined in section 52, and shall direct the Bank to carry out the sale, reduction, or cancellation of a loan pursuant to this title. The Bank shall make an adjustment in its accounts to reflect the sale, reduction, or cancellation.

"(e) LIMITATIONS.—The authorities of this section may be exercised beginning in fiscal year 1993 and only to such extent as provided for in advance in appropriations Acts for fiscal year 1993 or thereafter, as necessary to implement section 13201 of the Budget Enforcement Act of 1990.

"(f) DEPOSIT OF PROCEEDS.—The proceeds from the sale, reduction, or cancellation of any loan sold, reduced, or canceled pursuant to this title shall be deposited in the United States Government account or accounts established for the repayment of such loan.

"SEC. 55. DEBTOR CONSULTATION.

"Before the sale to any eligible purchaser, or any reduction or cancellation pursuant to this title of any loan made to an eligible country, the President shall consult with the country concerning, among other things, the amount of loans to be sold, reduced, or canceled and their

uses for debt-for-equity swaps, debt-for-development swaps, or debt-for-nature swaps.

"SEC. 56. AUTHORIZATION OF APPROPRIATIONS.

"For the sale, reduction, and cancellation pursuant to section 54 of loans or portions thereof made pursuant to this Act, there are authorized to be appropriated to the President such sums as may be necessary, which shall remain available until expended.".

SEC. 109. AMENDMENTS RELATING TO OUTDATED AND OBSOLETE PROVISIONS.

(a) AMENDMENTS TO SECTION 2.—Section 2 of the Export-Import Bank Act of 1945 (12 U.S.C. 635) is amended—

(1) in subsection (a)(3)—

(A) by striking "(A) IN GENERAL.—"; and

(B) by striking subparagraph (B);

(2) in subsection (b)(1)(A), by striking "The Bank shall also" and all that follows through the final period;

(3) in subsection (b)(1)(E)(v), by striking "not less than—" and all that follows through the end of clause (v) and inserting "not less than 10 percent of such authority for each fiscal year.";

(4) in subsection (b)(2)(B)—

(A) by striking clause (ii);

(B) in clause (i), by striking "(i) IN GENERAL.—" and by redesignating subclauses (I) and (II) as clauses (i) and (ii);

(C) in clause (i), as redesignated, by striking "Marxist-Leninism" and inserting "Marxism-Leninism"; and

(D) in clause (ii), as redesignated, by striking "the Union of Soviet Socialist Republics or on any other Marxist-Leninist country" and inserting "any other country that maintains a centrally planned economy based on the principles of Marxism-Leninism";

(5) by striking subparagraph (C) of subsection (b)(2) and redesignating subparagraph (D) as subparagraph (C);

(6) in subsection (b)(2)(C), as redesignated by paragraph (5)—

(A) by striking clauses (ii) and (iv); and

(B) by redesignating clause (iii) as clause (ii);

(7) in subsection (b)(6)(B)—

(A) in clause (iv), by inserting "and" at the end;

(B) in clause (v), by striking "; and" and inserting a period;

(C) in clause (v), by striking "guarantee and insurance authority" and inserting "loan, guarantee, and insurance authority"; and

(D) by striking clause (vi);

(8) by amending paragraph (1) of subsection (c) to read as follows:

"(1) FEES AND PREMIUMS.—Fees and premiums shall be charged commensurate, in the judgment of the Bank, with risks covered in connection with the contractual liability that the Bank incurs for guarantees, insurance, coinsurance, and reinsurance against political and credit risks of loss."; and

(9) by striking subsection (f).

(b) AMENDMENT TO SECTION 3.—Section 3(d)(1)(A) of the Export-Import Bank Act of 1945 (12 U.S.C. 635a(d)(1)(A)) is amended by striking "twelve" and inserting "15".

(c) AMENDMENTS TO SECTION 4.—Section 4 of the Export-Import Bank Act of 1945 (12 U.S.C. 635b) is amended—

(1) by striking the second sentence and all that follows through "transactions of the United States."; and

(2) in the last sentence—

(A) by striking ", to the extent of the common and preferred stock surrendered and other" and inserting "to the extent of"; and

(B) by striking "under this section".

(d) AMENDMENTS TO SECTION 7.—Section 7 of the Export-Import Bank Act of 1945 (12 U.S.C. 635e) is amended—

(1) by striking subsection (a)(3);

(2) in subsection (a)(1)—

(A) by striking "(a)(1)" and inserting "(a) LIMITATION ON OUTSTANDING AMOUNTS.—"; and

(B) by striking "$40,000,000,000" and inserting "$75,000,000,000";

(3) in paragraph (2)—

(A) by striking "(2)(A)(i)" and inserting the following:

"(b) PRESIDENTIAL DETERMINATION.—

"(1) IN GENERAL.—";

(B) by striking "(I)" and inserting "(A)";

(C) by striking "(II)" and inserting "(B)";

(D) by striking "(III)" and inserting "(C)";

(E) by striking "(ii) Not later than" and inserting "(2) REPORT.—Not later than";

(F) by striking "(B)(i)" and inserting the following:

"(3) REQUEST FOR LEGISLATION.—

"(A) IN GENERAL.—"; and

(G) by striking "(ii) The Bank" and inserting "(B) CONTINUED AVAILABILITY OF AUTHORITY.—The Bank".

(e) REPEAL OF OUTDATED SECTIONS.—The Export-Import Bank Act of 1945 (12 U.S.C. 635 et seq.) is amended—

(1) by striking sections 5, 10, 12, 13, 14, and 16;

(2) by redesignating sections 6 through 9 as sections 5 through 8, respectively;

(3) by redesignating section 11 as section 9;

(4) by redesignating section 15 as section 10; and

(5) by redesignating section 17, as added by section 105 of this Act, as section 11.

TITLE II—EXPORT PROMOTION

SEC. 201. TRADE PROMOTION COORDINATING COMMITTEE.

(a) ESTABLISHMENT AND PURPOSE.—The President shall establish the Trade Promotion Coordinating Committee (hereafter referred to as the "TPCC") which shall be chaired by the Secretary of Commerce. The purpose of the TPCC shall be—

(1) to coordinate the export promotion and financing activities of the United States Government; and

(2) to develop a governmentwide strategic plan for carrying out Federal export promotion and financing programs.

(b) DUTIES.—The TPCC shall—

(1) coordinate the development of the trade promotion policies and programs of the United States Government;

(2) provide a unifying framework for carrying out the United States Government's trade promotion programs more effectively;

(3) provide a central source of information for the business community on Federal exporter assistance programs;

(4) coordinate official trade promotion efforts to ensure better delivery of services to American businesses, including information and counseling on United States export promotion and financing programs and opportunities in foreign markets, representation of United States business interests abroad, and assistance with foreign business contacts and projects;

(5) avoid unnecessary duplication in Federal export promotion and financing activities;

(6) assess the appropriate levels and allocation of resources among agencies in support of export promotion and financing and provide recommendations to the President based on its assessment; and

(7) carry out such other duties as are deemed to be appropriate, consistent with the purpose of the TPCC.

(c) STRATEGIC PLAN.—In order to carry out subsection (b), the TPCC shall develop and implement a governmentwide strategic plan for Federal trade promotion efforts. Such plan shall—

(1) identify products, markets, kinds of companies, and industries that would most benefit from Federal trade promotion activities;

(2) establish a set of priorities for Federal activities in support of United States exports and explain the rationale for the priorities;

(3) review current Federal programs designed to promote the sale of United States exports in light of the priorities established under paragraph (2) and develop a plan to bring such activities into line with the priorities and to improve coordination of such activities;

(4) identify areas of overlap and duplication among Federal export promotion activities and propose means of eliminating them; and

(5) review State efforts to promote United States exports and propose means of developing cooperation between State and Federal efforts, including co-location, cost-sharing between Federal and State export promotion programs, and sharing of market research data.

(d) MEMBERSHIP.—Members of the TPCC shall include representatives from—

(1) the Department of Commerce;

(2) the Department of State;

(3) the Department of the Treasury;

(4) the Department of Agriculture;

(5) the Department of Energy;

(6) the Department of Transportation;

(7) the Office of the United States Trade Representative;

(8) the Small Business Administration;

(9) the Agency for International Development;

(10) the Trade and Development Program;

(11) the Overseas Private Investment Corporation;

(12) the Export-Import Bank of the United States; and

(13) at the discretion of the President, such other departments or agencies as may be necessary.

(e) REPORT TO CONGRESS.—The chairperson of the TPCC shall prepare and submit to the Congress, not later than September 30, 1993, and annually thereafter, a report describing the strategic plan developed by the TPCC pursuant to subsection (c), the implementation of such plan, and any revisions thereto.

SEC. 202. ONE-STOP SHOPS.

Section 2301(b) of the Omnibus Trade and Competitiveness Act of 1988 (15 U.S.C. 4721(b)) is amended—

(1) in paragraph (6), by striking "and" at the end;

(2) in paragraph (7), by striking the period and inserting a semicolon; and

(3) by adding at the end the following new paragraph:

"(8) utilizing district and foreign offices as one-stop shops for United States exporters by providing exporters with information on all export promotion activities of the Federal Government, assisting exporters in identifying which Federal programs may be of greatest assistance, and assisting exporters in making contact with the Federal programs identified; and".

SEC. 203. US&FCS-EXIMBANK COOPERATION.

(a) TRADE ACT AMENDMENT.—Section 2301(b) of the Omnibus Trade and Competitiveness Act of 1988 (15 U.S.C. 4721(b)) is amended by adding at the end the following new paragraph:

"(9) providing United States exporters with information on all financing and insurance programs of the Export-Import Bank, including providing assistance in completing applications for Bank programs, and working with exporters to address any deficiencies in such applications.".

(b) EXPORT-IMPORT BANK ACT AMENDMENT.—The Export-Import Bank Act of 1945 (12 U.S.C. 635 et seq.) is amended by adding at the end the following new section:

"SEC. 12. US&FCS-EXIMBANK COOPERATION.

"The Bank shall—

"(1) provide full and current information on all of its programs and financing practices to the United States and Foreign Commercial Service; and

"(2) undertake a training program for officers of the United States and Foreign Commercial

Service, as designated by the Director General of the United States and Foreign Commercial Service, in Bank programs and practices.".

SEC. 204. UNITED STATES AND FOREIGN COMMERCIAL SERVICE.

Section 2301(d)(1) of the Export Enhancement Act of 1988 (15 U.S.C. 4721(d)(1)) is amended in the first sentence by striking "8" and inserting "12".

SEC. 205. REPORT ON EXPORT POLICY.

(a) IN GENERAL.—Not later than May 31 of each year, the Secretary of Commerce shall submit to the Congress a report on the international economic position of the United States and, not later than June 30 of each year, shall appear before the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Foreign Affairs of the House of Representatives to testify on issues addressed in such report.

(b) CONTENTS.—

(1) IN GENERAL.—Each report under subsection (a) shall address—

(A) the state of United States international economic competitiveness, focusing, in particular, on the efforts of the Department of Commerce—

(i) to encourage research and development of technologies and products deemed critical for industrial leadership;

(ii) to promote investment in and improved manufacturing processes for such technologies and products; and

(iii) to increase United States industrial exports of products using the technologies described in clause (i) to those markets where the United States Government has sought to reduce barriers to exports;

(B) the implementation of the strategic plan developed by the Trade Promotion Coordinating Committee pursuant to section 201(c);

(C) other specific recommendations of the Department of Commerce to improve the United States balance of trade;

(D) the effects on the international economic competitiveness of the United States of—

(i) formal and informal trade barriers; and

(ii) subsidies by foreign countries to their domestic industries;

(E) the efforts of the Department of Commerce to reduce trade barriers; and

(F) the adequacy of Government export financing programs and recommendations for improving such programs.

(2) POLICY BASIS FOR REPORTS.—Portions of each report under this section may incorporate or be based upon relevant reports and testimony produced by the Department of Commerce or other agencies, but the policy views shall be those of the Secretary of Commerce.

SEC. 206. EXPORT PROMOTION AUTHORIZATION.

Section 202 of the Export Administration Amendments Act of 1985 (15 U.S.C. 4052) is amended to read as follows:

"SEC. 202. AUTHORIZATION OF APPROPRIATIONS.

"There are authorized to be appropriated to the Department of Commerce—

"(1) to carry out export promotion programs—

"(A) $182,000,000 for fiscal year 1993; and

"(B) $190,000,000 for fiscal year 1994; and

"(2) to carry out section 2303 of the Omnibus Trade and Competitiveness Act of 1988, $6,000,000 for each of fiscal years 1993 and 1994.".

TITLE III—MISCELLANEOUS PROVISIONS

SEC. 301. INTERNATIONAL EMERGENCY ECONOMIC POWERS ACT.

Section 207 of the International Emergency Economic Powers Act (50 U.S.C. 1706) is amended—

(1) by redesignating subsections (c) and (d) as subsections (d) and (e), respectively; and

(2) by inserting after subsection (b) the following new subsection:

"(c) EXPIRED LEGISLATIVE AUTHORITY.—

"(1) IN GENERAL.—The President may use the authority of this Act to extend or reinstate an expired provision of law for only one period of not more than 180 days after the date of such expiration, unless the President submits a declaration of emergency to the Congress and the Congress approves such use of authority, as provided in paragraph (3).

"(2) INTRODUCTION OF AUTHORIZING LEGISLATION.—

"(A) IN GENERAL.—In any case in which the President has invoked the authority of this Act to extend or reinstate an expired provision of law, a bill providing a simple extension of the expired legislative authority for a period of not less than 180 days shall be introduced in each House of Congress as follows:

"(i) HOUSE OF REPRESENTATIVES.—In the House of Representatives, the bill shall be introduced by the chairman of the appropriate committee of jurisdiction, for the chairman and the ranking minority member of the committee, or by the Members of the House designated by the chairman and ranking minority member.

"(ii) SENATE.—In the Senate, the bill shall be introduced by the Majority Leader of the Senate, for the Majority Leader and the Minority Leader of the Senate, or by Members of the Senate designated by the Majority Leader and the Minority Leader of the Senate.

"(iii) TIMING.—The bills shall be introduced not later than 10 calendar days after the President's action or, if either House is not in session at the end of such period, on the first day thereafter on which that House is in session.

"(B) PROCEDURES FOR INTRODUCTION AND COMMITTEE CONSIDERATION.—

"(i) BILL PROVIDING A SIMPLE EXTENSION OF AUTHORITY DEFINED.—For purposes of this subsection, the term 'a bill providing a simple extension of expired legislative authority' means only a bill that provides exclusively for the termination of statutory authority, not less than 180 days following the date of enactment of such legislation.

"(ii) REFERRAL TO COMMITTEE.—Any bill described in this subparagraph that is introduced in the House of Representatives or the Senate shall be referred to the appropriate committees of jurisdiction in that House.

"(iii) DISCHARGE FROM COMMITTEE.—If the committee of either House to which a bill described in this paragraph has been referred has not reported such bill, or any other bill on the same matter, at the end of 60 days after the bill's referral, the committee shall be discharged from further consideration of the original bill.

"(3) PROCEDURE FOR EXTENDING EMERGENCY AUTHORITY.—

"(A) PROPOSAL REQUIRED.—If the President determines that extension of an expiring provision of law beyond the 180 days provided in paragraph (1) is necessary to the national security, foreign policy, or economy of the United States, the President shall, not later than 120 days after the authority of this section has been invoked or, if on that date the Congress has recessed, adjourned to a date certain, or adjourned sine die, then not later than 5 days after the Congress comes back into session, submit to the Congress—

"(i) a declaration of emergency explaining any unusual and extraordinary threat, which has its source in whole or substantial part outside of the United States, to the national security, foreign policy, or economy of the United States that justifies extension of any expiring statutory authority; and

"(ii) a proposal to extend the expiring authority for not more than 1 year.

"(B) REQUIREMENT FOR CONGRESSIONAL APPROVAL.—The proposed extension of authority shall not take effect unless the Congress, not later than 60 calendar days after receiving the report, enacts a joint resolution approving the extension.

"(C) PROCEDURES FOR INTRODUCTION AND COMMITTEE CONSIDERATION.—

"(i) JOINT RESOLUTION DEFINED.—For purposes of this paragraph, the term 'joint resolution' means only a joint resolution the matter after the resolving clause of which is as follows: 'That the President is authorized to continue to exercise the authority of the _____, for a period of _____ days, as proposed in the submission of the President of _____.', with the blank spaces being filled with the appropriate citations of lapsed legislative authority, time period, and date of the submission of the proposal.

"(ii) INTRODUCTION.—On the day on which a proposal is submitted to the House of Representatives and the Senate under subparagraph (A), a joint resolution with respect to the proposed extension shall be introduced—

"(I) in the House of Representatives (by request) by the chairman of the appropriate committee of jurisdiction, for the chairman and the ranking minority member of the committee, or by the Members of the House designated by the chairman and ranking minority member;

"(II) in the Senate (by request) by the Majority Leader of the Senate, for the Majority Leader and the Minority Leader of the Senate, or Members of the Senate designated by the Majority Leader and the Minority Leader of the Senate.

"(iii) SUBMISSIONS WHILE NOT IN SESSION.—If other House is not in session on the day on which the proposal is submitted, the joint resolution shall be introduced on the first day thereafter on which that House is in session.

"(iv) REFERRAL TO COMMITTEE.—Any joint resolutions introduced under this paragraph in the House of Representatives and the Senate shall be referred to the appropriate committees of jurisdiction.

"(v) DISCHARGE FROM COMMITTEE.—If the committee of either House to which a joint resolution has been referred under this paragraph has not reported the joint resolution at the end of 30 days after its referral, the committee shall be discharged from further consideration of the joint resolution and of any other joint resolution introduced with respect to the same matter.

"(4) FLOOR CONSIDERATION OF BILLS AND JOINT RESOLUTIONS.—

"(A) PROCEDURES.—Any bill or joint resolution described in subparagraph (B) shall be considered in the Senate in accordance with section 601(b) of the International Security Assistance and Arms Export Control Act of 1976. For the purpose of expediting the consideration and enactment of such bill or joint resolution under this subsection, a motion to proceed to the consideration of any such bill or joint resolution after it has been reported by the appropriate committee shall be treated as highly privileged in the House of Representatives.

"(B) AFFECTED BILLS AND JOINT RESOLUTIONS.—The procedures in subparagraph (A) shall apply to—

"(i) any bill in the form described in paragraph (2)(B)(i) and discharged from committee as provided in paragraph (2)(B)(iii); and

"(ii) any joint resolution described in paragraph (3)(C)(i) or any other joint resolution with respect to the same matter discharged from committee as provided in paragraph (3)(C)(v).

Any bill on the same matter as a bill described in paragraph (2)(B)(i) that is reported from committee in a form other than as described in that paragraph shall be considered in the House of Representatives and the Senate under normal legislative procedures.

"(C) BILL OR JOINT RESOLUTION RECEIVED FROM OTHER HOUSE.—In the case of a bill in the

form described in paragraph (2)(B)(i) or a joint resolution described in paragraph (3)(C)(i), if, before the passage by 1 House of such a bill or joint resolution of that House, that House receives such a bill or joint resolution with respect to the same matter from the other House, then—

"(i) the procedure in that House shall be the same as if no bill or joint resolution had been received from the other House; but

"(ii) the vote on final passage shall be on the bill or joint resolution of the other House.

"(D) COMPUTING TIME PERIOD.—In computing the time periods referred to in paragraphs (2)(B)(iii), (3)(B), and (3)(C)(iv), there shall be excluded the days on which either House of Congress is not in session because of an adjournment of more than 3 days to a day certain or because of an adjournment of the Congress sine die.

"(E) CONGRESSIONAL ACTION NOT REQUIRED.—If the legislative authority extended or reinstated under the authority of this section is extended or reinstated by law for a period longer than that proposed by the President under paragraph (3)(A) prior to the expiration of the 60-day period described in paragraph (3)(B), then no further action on any joint resolution described in paragraph (3) is required, and the procedures of paragraph (3)(C) are waived.".

SEC. 302. JOHN HEINZ COMPETITIVE EXCELLENCE AWARD.

(a) ESTABLISHMENT.—There is hereby established the John Heinz Competitive Excellence Award, which shall be evidenced by a national medal bearing the inscription "John Heinz Competitive Excellence Award". The medal, to be coined by the United States Mint and provided to the United States Senate, shall be of such design and materials and bear such additional inscriptions as the Majority and Minority Leaders of the Senate may prescribe.

(b) AWARD CATEGORIES.—

(1) IN GENERAL.—Two separate awards may be given under this section in each year. One such award may be given to a qualifying individual (including employees of any State or local government, or the Federal Government), and 1 such award may be given to a qualifying organization, institution, or business.

(2) LIMITATION.—No award shall be made under this section to an entity in either category described in paragraph (1) in any year if there is no qualified individual, organization, institution, or business recommended under subsection (c) for an award in such category in that year.

(c) QUALIFICATION CRITERIA FOR AWARD.—

(1) SELECTION PANEL.—A selection panel shall be established, comprised of 3 persons appointed by the Majority Leader of the Senate and 3 persons appointed by the Minority Leader of the Senate.

(2) QUALIFICATION.—An individual, organization, institution or business may qualify for an award under this section only if such individual, organization, institution, or business—

(A) is nominated to the Majority and Minority Leaders of the Senate by a current or former United States Senator;

(B) permits a rigorous evaluation by the Office of Technology Assessment of the way in which such individual, organization, institution, or business has demonstrated excellence in promoting United States industrial competitiveness; and

(C) meets such other requirements as the selection panel determines to be appropriate to achieve the objectives of this section.

(3) EVALUATION.—An evaluation of each nominee shall be conducted by the Office of Technology Assessment. The Office of Technology Assessment shall work with the selection panel to establish appropriate procedures for evaluating nominees.

(4) PANEL REVIEW.—The selection panel shall review the Office of Technology Assessment's evaluation of each nominee and may, based on those evaluations, recommend 1 award winner for each year for each category described in subsection (b)(1) to the Majority and Minority Leaders of the Senate.

(d) PRESENTATION OF AWARD.—

(1) IN GENERAL.—The Majority and Minority Leaders of the Senate shall make the award to an individual and an organization, institution or business that has demonstrated excellence in promoting United States industrial competitiveness in the international marketplace through technological innovation, productivity improvement, or improved competitive strategies.

(2) CEREMONIES.—The presentation of an award under this section shall be made by the Majority and Minority Leaders of the Senate with such ceremonies as they may deem proper.

(3) PUBLICITY.—An individual, organization, institution, or business to which an award is made under this section may publicize its receipt of such award and use the award in its advertising, but it shall be ineligible to receive another award in the same category for a period of 5 years.

(e) PUBLICATION OF EVALUATIONS.—

(1) SUMMARY OF EVALUATIONS.—The Office of Technology Assessment shall ensure that all nominees receive a detailed summary of any evaluation conducted of such nominee under subsection (c).

(2) SUMMARY OF COMPETITIVENESS STRATEGY.—The Office of Technology Assessment shall also make available to all nominees and the public a summary of each award winner's competitiveness strategy. Proprietary information shall not be included in any such summary without the consent of the award winner.

(f) REIMBURSEMENT OF COSTS.—The Majority and Minority Leaders of the Senate are authorized to seek and accept gifts from public and private sources to defray the cost of implementing this section.

AMENDMENT NO. 2947

(Purpose: To make technical corrections to the bill, and for other purposes)

Mr. MITCHELL. Mr. President, on behalf of Senators SARBANES, RIEGLE, GARN, and MACK, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Maine [Mr. MITCHELL], on behalf of Mr. SARBANES, for himself, Mr. RIEGLE, Mr. GARN, and Mr. MACK, proposes an amendment numbered 2947.

Mr. MITCHELL. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

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

The amendment is as follows:

On page 33, line 9, insert ", including the agencies whose representatives are members of the Environmental Trade Working Group of the Trade Promotion Coordinating Committee," after "agencies".

On page 35, strike lines 1 through 4.

On page 35, line 5, strike "(D)" and insert "(C)".

On page 50, line 9, strike "and".

On page 50, between lines 9 and 10, insert the following:

(5) in conjunction with the Director of the Office of Management and Budget, propose to the President annually a unified Federal trade promotion budget that supports the plan for priority activities and improved coordination established under paragraph (3) and eliminates funding for the areas of overlap and duplication identified under paragraph (4); and

On page 50, line 10, strike "(5)" and insert "(6)".

On page 51, between lines 9 and 10, insert the following:

(e) MEMBER QUALIFICATIONS.—Members of the TPCC shall be appointed by the heads of their respective departments or agencies. Such members, as well as alternates designated by any members unable to attend a meeting of the TPCC, shall be individuals who exercise significant decisionmaking authority in their respective departments or agencies.

On page 51, line 10, strike "(e)" and insert "(f)".

On page 52, line 13, insert "and export finance institutions" after "exporters".

On page 52, line 17, insert "and export finance institutions" after "exporters".

On page 53, between lines 8 and 9, insert the following:

SEC. 204. ENVIRONMENTAL TRADE PROMOTION.

(a) ENVIRONMENTAL TRADE WORKING GROUP OF THE TRADE PROMOTION COORDINATION COMMITTEE.—

(1) ESTABLISHMENT AND PURPOSE.—The President shall establish the Environmental Trade Promotion Working Group (hereafter referred to as the "Working Group") as a subcommittee of the Trade Promotion Coordination Committee. The purpose of the Working Group shall be to address all issues with respect to the export promotion and export financing of United States environmental technologies, goods, and services.

(2) MEMBERSHIP.—The members of the Working Group shall be—

(A) representatives of the agencies that are represented on the Trade Promotion Coordination Committee; and

(B) a representative of the Environmental Protection Agency.

(3) CHAIRPERSON.—The Secretary of Commerce shall designate the chairperson of the Working Group from among senior employees of the Department of Commerce. The chairperson shall—

(A) assess the effectiveness of United States Government programs for the promotion of exports of environmental technologies, goods, and services;

(B) recommend improvements to such programs, including regulatory changes or additional authority that may be necessary to improve the promotion of exports of environmental technologies, goods, and services;

(C) ensure that the members of the Working Group coordinate their environmental trade promotion programs, including feasibility studies, technical assistance, business information services, and export financing; and

(D) assess, jointly with the Working Group representative of the Environmental Protection Agency, the extent to which the environmental trade promotion programs of the Working Group advance the environmental goals established in "Agenda 21" by the United Nations Conference on Environment and Development at Rio de Janeiro, and in other international environmental agreements.

(4) REPORTS TO CONGRESS.—The chairperson of the Trade Promotion Coordination Committee shall include a report on the activities of the Environmental Trade Working Group as a part of the annual report submitted to the Congress by the Trade Promotion Coordination Committee.

(b) ENVIRONMENTAL TRADE PROMOTION BY THE DEPARTMENT OF COMMERCE.—The Export

Enhancement Act of 1988 (15 U.S.C. 4721 et seq.) is amended by adding at the end the following new section:

"SEC. 2312. ENVIRONMENTAL TRADE PROMOTION.

"(a) STATEMENT OF POLICY.—It is the policy of the United States to foster the export of United States environmental technologies, goods, and services. In exercising its powers and functions, the Department shall encourage and support sales of such technologies, goods, and services.

"(b) TRADE PROMOTION COORDINATION COMMITTEE.—The chairperson of the Environmental Trade Working Group of the Trade Promotion Coordinating Committee, established under section 204(a) of the Export Enhancement Act of 1992, shall—

"(1) advise the Secretary and other employees of the Department on ways to promote the export of United States environmental technologies, goods, and services; and

"(2) serve as a liaison between the Department and other agencies that are members of the Environmental Trade Working Group.

"(c) TRADE INFORMATION.—In support of the work of the Environmental Trade Working Group, the Department shall, as part of its regular market survey and information services activities, make available to United States providers of environmental technologies, goods, and services—

"(1) survey information on existing and emerging market trends for environmental technologies, goods, and services; and

"(2) a description of the export promotion programs for environmental technologies, goods, and services of the agencies that are represented on the Environmental Trade Working Group.

"(d) OVERSEAS SERVICES FOR EXPORTERS.—

"(1) AUTHORIZATION.—The Secretary is authorized to designate a Foreign Commercial Service officer to serve as the Environmental Export Assistance Officer in any country—

"(A) whose companies are important competitors for United States exports of environmental technologies, goods, and services; or

"(B) that offers promising markets for such exports.

"(2) DUTIES.—The officer designated under paragraph (1) shall provide export promotion assistance to United States companies, including—

"(A) assessment of government assistance provided to producers of environmental technologies, goods, and services in such countries, the effectiveness of such assistance on the competitiveness of United States products, and whether comparable United States assistance exists;

"(B) assistance in identifying potential customers and market opportunities in such countries;

"(C) assistance in obtaining necessary business services in such countries;

"(D) information on environmental standards and regulations in such countries; and

"(E) information on all United States Government programs that could assist the promotion, financing, and sale of exports of United States environmental technologies, goods, and services in such countries.".

On page 53, line 9, strike "204" and insert "205".

On page 53, line 14, strike "205" and insert "206".

On page 55, line 14, strike "206" and insert "207".

On page 49, delete lines 20 through 22 and conform paragraph numbers accordingly.

Mr. SARBANES. Mr. President, I rise in support of S. 2864, the Export Enhancement Act of 1992. This legislation, which was reported out of the Banking Committee on June 18, was introduced by myself, Senator RIEGLE, Senator GARN, and Senator MACK. It would reauthorize the Export-Import Bank of the United States, whose charter expires on September 30, as well as the export promotion programs of the Commerce Department.

I am pleased that this legislation is being cosponsored by the chairman of the Senate Banking Committee, Senator RIEGLE, who has taken an active and long-run interest in U.S. export promotion and finance policy. In fact, Senator RIEGLE participated actively in the two subcommittee hearings which I chaired and which helped us to develop many of the proposals in this bill. Senator GARN, the ranking Republican member of the Banking Committee, and Senator MACK, the ranking Republican member of the Banking Committee's Subcommittee on International Finance and Monetary Policy, which I chair, were also closely involved in its development. Senator ROCKEFELLER has also taken a strong interest in this bill.

Title I of the legislation reauthorizes the charter for the Export-Import Bank of the United States. The Subcommittee on International Finance and Monetary Policy held an oversight hearing on the Export-Import Bank on May 14. Testimony presented at the hearing by John Macomber, the president and chairman of the Export-Import Bank, as well as leading representatives of U.S. exporters and commercial banks engaged in trade finance, made clear that foreign governments continue aggressive use of official financing to support their countries' exports. As a result, there continues to be a need for the United States to have a strong and active Export-Import Bank to support sales of U.S. exports abroad.

It was only a few short years ago that the Reagan administration proposed the elimination of the Export-Import Bank on the ground that there was no need for such an institution. Fortunately that view seems to have been reversed, and the Eximbank appears to have made significant improvement under the leadership of President Macomber.

The legislation introduced would reauthorize the charter for the Export-Import for 5 years, through September 30, 1997. In addition, it would reauthorize the Tied Aid Credit War Chest of the Eximbank for 3 years, at its current authorization level of $500 million a year.

The three key issues that emerged in the hearing on May 14, and that are addressed in the legislation, are the implementation of the recent agreement reached within the OECD [Organization for Economic Cooperation and Development] to restrict the use of tied aid credits; the impact of credit reform on the loan guarantee programs of the Eximbank; and the problems encountered by the Eximbank in retaining experienced professional staff.

The tied aid credit agreement concluded within the OECD in February prohibits the use of tied aid credits in higher income countries and middle income developing countries for projects that are financially viable. A project is considered financially viable if it has the capacity, with appropriate pricing determined on market principles, to generate cash flow sufficient to cover the project's operating costs and to service the capital employed. The rationale is that if a project is not financially viable then it is truly a development project and may be eligible for concessional assistance.

Pursuant to the conclusion of the OECD agreement, the Eximbank announced a policy of using its Tied Aid Credit War Chest simply to enforce compliance with the agreement. In other words, if foreign governments are making extensive use of tied aid credit, but within the terms of the OECD agreement, then the Eximbank will not utilize its war chest.

This raises a couple of concerns. First, the Eximbank adopted a similar policy in 1988 and 1989 of using the war chest simply to enforce the then existing OECD agreement. The result was that the war chest was virtually unused in both of those years while foreign governments continued to make extensive use to tied aid credits in support of exports from their countries.

Second, and particularly troubling, are the consequences of this policy for dealing with the lines of credit grandfathered under the new OECD agreement. Under the OECD agreement, credit lines notified prior to February 15, 1992, are grandfathered. Offers under these credit lines, subject to the old rules, may be extended through August 15, 1992, with a shelf life of 12 months. Thus deals could continue under the old rules for 18 months after the new rules go into effect.

The U.S. business community has raised concerns over this grandfather provision because it places U.S. companies in the position of having to compete for projects under the old OECD rules for up to 1½ years after the new rules are supposed to go into effect. This is particularly problematic because of the Eximbank's announced intention of using the war chest in the future only to enforce compliance with the agreement. Since the grandfathered lines of credit are permitted under the agreement, U.S. companies will have to compete for projects against foreign companies benefitting from tied aid credits with no possibility of receiving any tied aid credit support from the U.S. Eximbank.

As a result of these concerns, the Export Enhancement Act of 1992 amends the provision of the Export-Import

Bank Act authorizing the Bank to match tied aid credits offered by another country by adding:

With special attention to match tied aid and partially untied aid credits extended by other governments: (i) in violation of the OECD arrangement; or (ii) in cases in which the Bank determines that United States trade or economic interests justify the matching of tied aid credits extended in compliance with the arrangement, including grandfathered cases.

The intent of this new provision is to make clear that the Eximbank has authority to match tied aid credits offered by other governments in compliance with the OECD agreement if the Bank determines it is in the U.S. economic interest to do so, with particular attention to cases of credits grandfathered under the OECD agreement.

A second issue of concern is the potential impact of credit reform on the loan guarantee program of the Eximbank. The budget agreement reached in 1990 contained a new method of accounting for federal credit programs that has resulted in a higher subsidy cost for an Eximbank loan guarantee than for an Eximbank direct loan. As a result, exporters and commercial banks have expressed concerns that the lower subsidy costs of direct loans might lead the Eximbank to reduce or eliminate its loan guarantee program.

This would be an unfortunate result because the loan guarantee program of Eximbank has had an important influence on keeping private commercial banks in the business of trade finance. Commercial bank participation in trade finance expands the pool of available credit, and commercial banks provide an ease of access, a range of services, and financing for the 15 percent of a transaction not covered by Eximbank credits that the Eximbank itself cannot provide.

Thus far the Eximbank has indicated a clear intent to continue its loan guarantee program and to provide borrowers both a direct loan and loan guarantee option. Nevertheless, to provide statutory direction to the Eximbank on this issue, the legislation contains a provision requiring:

That the Bank, in determining whether to provide support for a transaction under the loan, guarantee, or insurance program, or any combination thereof, shall consider the need to involve private capital in support of United States exports as well as the cost of the transaction as calculated in accordance with the requirements of the Federal Credit Reform Act of 1990.

The third key issue relates to the compensation of Eximbank personnel. The Financial Institutions Reform, Recovery, and Enforcement Act of 1989 [FIRREA] authorized the Federal financial regulatory agencies—the Federal Reserve Board, Federal Deposit Insurance Corporation, Comptroller of the Currency, National Credit Union Administration, Federal Housing Finance Board, and the Office of Thrift Supervision—to set compensation and benefits for their officers and employees independently of the Federal civil service guidelines. As a result, these agencies have been able to compensate their professional and management employees at rates significantly above those available to Eximbank employees.

This has created a problem for the Eximbank which recruits from the same professional talent pool as the financial regulatory agencies. The Eximbank reports that it has experienced difficulty in competing for new staff with the regulatory agencies. Perhaps of greater concern, the Eximbank reports that it has lost some key experienced Eximbank professional staff to the financial regulatory agencies.

As a result, the legislation contains a provision which would authorize the Eximbank, within its existing budgetary resources, to provide additional compensation and benefits to Bank employees if similar compensation and benefits are being provided by Federal bank regulatory agencies.

Title I of the legislation also contains a provision sponsored by Senate WIRTH which would provide a statutory basis for review of the environmental impact of projects financed by the Eximbank. It would require the Eximbank to establish procedures to take into account the beneficial and adverse environmental effects of goods and services which it may be asked to support under its direct lending and guarantee programs. This provision would also direct the Bank to encourage the use of its programs to support the export of goods and services that have beneficial effects on the environment or mitigate potential adverse environmental effects.

Title I would also require the Eximbank to seek to ensure that U.S. insurance companies are accorded a fair and open competitive opportunity to provide insurance against risk of loss in connection with any long-term loan or guarantee of at least $10 million provided by the Bank. The provision requires the Bank to make a judgment as to whether a given loan or guarantee would be likely to achieve access where competitive access is denied, and to forward information to the Secretary of Commerce and the U.S. Trade Representative in any case in which it becomes aware of denial of competitive opportunities for U.S. insurance companies. Senator ROTH was the sponsor of this provision.

Finally, title I authorizes the President to sell, reduce or cancel Eximbank loans as part of the Enterprise for the Americans Initiative. This provision was included in the legislation at the urging of Senator GRAHAM.

Title II of the legislation reauthorizes the export promotion programs of the Commerce Department and addresses the broader issue of U.S. export promotion policy. The Banking Committee's Subcommittee on International Finance held a hearing on May 20 to review the range of export promotion programs sponsored by the Federal Government. Invited to testify at the hearing were representatives of the Commerce Department, Eximbank, Small Business Administration, Agriculture Department, Agency for International Development, and the trade and Development Program.

The number of agencies represented at the hearing is an indication of a key problem confronting U.S. export promotion policy: the lack of coordination and an overall national strategy. This lack of coordination and overall strategy was commented upon by representatives of the General Accounting Office, the National Association of Manufacturers, and the National Governors Association, who also testified at the hearing.

In response to this problem, the legislation would provide a statutory base for the interagency Trade Promotion Coordinating Committee [TPCC], which until now has operated pursuant to Executive order. While the TPCC has, according to a GAO report, achieved some success, it lacks permanent status and its long-term effectiveness is yet to be demonstrated.

The TPCC would be chaired by the Secretary of Commerce. Its purpose would be to coordinate the export promotion and financing activities of the U.S. Government and develop a governmentwide strategic plan for carrying out Federal export promotion and financing programs. Members of the TPCC would include representatives of the Departments of Commerce, State, Treasury, Agriculture, Energy, and Transportation, as well as the U.S. Trade Representative, Small Business Administration, Agency for International Development, Trade and Development Program, Overseas Private Investment Corporation, and the Eximbank. The TPCC would be required to submit an annual report to Congress describing its strategic plan, the implementation of the plan, and any revisions made to the plan.

In order to improve the accessibility of U.S. export promotion programs to small and medium-sized exporters around the country who are not able to come to Washington, the legislation directs the U.S. Foreign and Commercial Service to utilize its 69 domestic offices and its 130 foreign posts as one stop shops for U.S. exporters. The offices would be required to provide exporters with information on all export promotion activities of the Federal Government, and assist exporters in identifying which Federal programs may be of greatest assistance and making contact with the Federal programs identified.

In addition, the legislation would specifically require the US&FCS to

provide U.S. exporters with information on all financing and insurance programs of the Eximbank, including providing assistance in completing applications for Bank programs, and working with exporters to address any deficiencies in such applications. The Eximbank, in turn, would be required to provide full and current information on all of its programs and financing practices to the US&FCS and undertake a training program for US&FCS officers in bank programs and practices. Senator ROCKEFELLER has been a leading proponent of increasing cooperation between the US&FCS and the Eximbank and utilizing the US&FCS district office network as an outreach arm of the Eximbank.

The legislation would also require the Secretary of Commerce to submit to Congress an annual report on the international economic position of the United States, and appear before the Senate Banking and Housing Foreign Affairs Committees annually to testify on the report. Senator RIEGLE has been the leading proponent of institutionalizing such an annual reporting requirement by the Commerce Secretary on the competitive position of the United States in the international marketplace. This report and annual hearings on it will enable Congress to strengthen oversight of this increasingly important issue.

Finally, title II of the legislation would increase the number of foreign commercial service officers with the rank of Minister-Counselor from 8 to 12, and provide a 2-year authorization for the export promotion programs of the Commerce Department—$182 million for fiscal year 1993, and $190 million for fiscal year 1994.

Title III of the legislation includes two provisions sponsored by Senator GARN. The first provision would place a limitation on the use of the International Emergency Economic Powers Act [IEEPA] in situations in which an international emergency is declared in order to extend or reinstate provisions of law that have lapsed due to inaction by the Congress or a veto by the President. This provision is a response to the current situation with respect to the Export Administration Act.

The second provision includes the text of a bill, S. 2503, to establish the John Heinz Competitive Excellence Award. This provision is intended to honor the memory of Senator John Heinz for his efforts to promote the industrial competitiveness of the United States during his 14 years of service on the Senate Banking Committee. The provision would authorize two awards each year for excellence in promoting U.S. industrial competitiveness, to be awarded by the majority and minority leaders on behalf of the Senate.

A managers amendment to S. 2864, offered by the four original sponsors of the legislation, incorporates proposals put forward by Senator WIRTH, Senator ROCKEFELLER, and Senator BIDEN. The managers amendment would provide a statutory basis for the environmental trade working group of the Trade Promotion Coordinating Committee and direct it to assess the effectiveness of U.S. Government programs to promote environmental exports, recommend improvements in such programs, and ensure coordination of programs among members of the working group. This provision was sponsored by Senator WIRTH.

The managers amendment would also require that the members of the Trade Promotion Coordinating Committee be appointed by the heads of their respective departments or agencies and be individuals who exercise significant decisionmaking authority in their respective departments. It would direct the TPCC to propose to the President annually a unified Federal trade promotion budget and require the US&FCS to provide exporters and export finance institutions with information on all financing and insurance programs of the Export Import Bank. These provisions were included at the urging of Senator ROCKEFELLER.

The managers amendment also contains a provision, sponsored by Senator BIDEN, which would authorize the Secretary of Commerce to designate a Foreign Commercial Service Officer to serve as the Environmental Export Assistance Officer in any country whose companies are important competitors for U.S. exports of environmental goods and services or that offers promising markets for such exports.

Mr. RIEGLE. Mr. President, I rise today to urge the passage of S. 2864, the Export Enhancement Act of 1992. S. 2864 will renew and amend the charter of the Export-Import Bank of the United States and strengthen our country's overall export financing and promotion programs. It is designed to enhance U.S. export competitiveness. Senator SARBANES and I, along with Senators GARN and MACK, introduced S. 2864 on June 17. On June 18, the bill was marked up and ordered to be reported by the Banking Committee after the adoption of a managers amendment incorporating improvements recommended by various members of the committee. The bill before the Senate today has been further amended to incorporate certain additional improvements suggested by Senators BIDEN, ROCKEFELLER and WIRTH.

Export financing plays a critical role in export competitiveness. Through the reauthorization of the Eximbank and the amendments it makes to that Bank's charter, this bill strengthens the export financing programs of the United States. The bill also reauthorizes the export promotion programs of the Commerce Department. Without such programs important export growth markets and strategic export sectors may be lost to our competitors.

The bill, however, goes beyond simply reauthorizing existing export promotion and financing programs. In contrast to our principal competitors, the United States does not have a comprehensive, integrated export enhancement strategy. There are 10 executive agencies involved in either export promotion or financing activities. Yet, we have no strategic plan for coordinating these activities and ensuring the efficiency of these many federal programs. A January 1992 report issued by the GAO found that "export promotion programs do not receive funding based on a governmentwide strategy or set of priorities. Without an overall rationale, it is unclear whether export promotion resources are being channeled into areas with the greatest potential return."

In order to improve the coherence of our export promotion programs, this bill establishes permanently in statute the recently established Presidential interagency committee known as the Trade Promotion Coordinating Committee [TPCC]. This committee is chaired by the Secretary of Commerce and composed of representatives from the various agencies engaged in trade policy and export promotion and financing activities. This bill not only establishes the TPCC in law but also charges it to develop a governmentwide strategic plan for promoting and financing exports. Proper development and implementation of such a plan will ensure our export promotion and financing activities are being coordinated and that priorities are being set that will enable our Nation to get the maximum return for the money we spend on such activities.

The bill also directs the U.S. Foreign and Commercial Service to utilize its 67 domestic offices and 129 foreign offices as one-stop shops for U.S. exporters. Our intention is to ensure that small- and medium-sized companies, not familiar with exporting, can get all the help they need in identifying relevant Federal programs in one, easily accessible office. We have to get more American firms involved in exporting and this provision is designed to help that happen.

The Department of Commerce has a key responsibility for strengthening our international trade and investment position. This bill raises the visibility of that important function by requiring the Secretary of Commerce to submit to the Congress an annual report on the international economic position of the United States and to appear annually before the Senate Banking Committee and the House Foreign Affairs Committee to testify on the report. Among other things, this provision will require the Commerce Secretary to report on the Department's efforts to promote the development of technologies and products critical to our industrial leadership and to increase

exports of products using such technologies. The Secretary is also required to include in this annual report a summary of the work being done by the TPCC to implement a governmentwide strategic plan for coordinating all export promotion and financing activities of our Government. The annual report and hearing requirements are designed to focus attention on these important activities and ensure better congressional oversight of them.

Mr. President, this bill contains a provision establishing the John Heinz Competitive Excellence Award. This provision authorizes two awards each year for excellence in promoting U.S. industrial competitiveness. It is indeed most fitting that this bill, whose primary objective is the strengthening of U.S. export competitiveness, should establish an award in memory of Senator Heinz. During his many years on the Banking Committee, Senator Heinz demonstrated a strong commitment to strengthening America's industrial base and export competitiveness. I am pleased to support this provision honoring those efforts.

Mr. President, I want to express my appreciation to Senator SARBANES for his leadership and for working closely with me to ensure that many of the provisions to which I attach great importance are included in this bill. I would also like to thank Senators GARN and MACK for their support and contributions to this bill. As I previously mentioned, Senators ROCKEFELLER, WIRTH, and BIDEN have also made valuable contributions.

Finally, Mr. President, I note that this legislation contains elements of the U.S. economic leadership strategy, announced by the majority leader earlier this month. It is one piece of a larger Democratic initiative designed to strengthen our country's international economic position. This legislation is vital to our ability to compete in the global economic arena. We cannot fail to provide American firms with the essential competitive tools which this legislation affords. I urge its prompt passage.

Mr. ROCKEFELLER. Mr. President, the Export Enhancement Act of 1992 gives us an important opportunity to begin to bring order to the chaos that Government export promotion programs suffer from currently. I must compliment Senator SARBANES, Senator RIEGLE, Senator GARN, and Senator MACK for their tremendous contributions to this effort. It was my pleasure to have the opportunity to work with them and the members of the Banking Committee to make sure that American exporters are provided with the most efficient and effective assistance in the world. This bill takes a number of important steps in that direction that we should adopt now as part of our effort to strengthen the Eximbank and to better coordinate our export promotion efforts. I would also note, Mr. President, that this bill is also part of the national economic leadership strategy that the majority leader announced on July 1. That strategy explicitly recognized the importance of an effective export promotion policy to any long term growth program and endorsed the provisions of S. 2864.

Enhancing exports is a popular topic in the Congress, which is no surprise, given the huge trade deficits of the past decade. Despite some improvement in the past few years, the trend in our trade deficit since February has been bad—each month worse than the one before. If that continues, and there is no reason to think it won't the 1992 deficit will be worse than last year. More ominous still, the data show declining exports. As world growth slows, we will have to work much harder simply to maintain our exports, much less expand them.

Every year in Congress there are numerous proposals to expand exports, but they are normally not given any serious, coherent review. We add programs at whim when we have the money, and we add mandates when we don't have the money, in both cases often without regard to what is already there.

The result is overlap and lack of coordination that confuses large American businesses and intimidates small ones. American companies must wade through a 16 agency bureaucratic swamp of conflicting advice, limited resources, complicated rules, and bureaucratic struggles before emerging—barely competitive—in the international arena. A recent GAO report highlights the ad hoc nature of our Government's export promotion activities and concludes that they lack organizational and funding cohesiveness.

Meanwhile, our competitors in Europe and Asia engage in vigorous and coordinated policies of export promotion and finance. The administration's response has been to seek international agreements to limit subsidized Government interference in the marketplace. That is a worthy objective, Mr. President, but it is unlikely to be achieved any time soon. While we should continue to pursue it, we should at the same time not hesitate to develop our own programs that permit our exporters to compete effectively in the international marketplace.

Mr. President, I believe we need to develop an aggressive and coordinated policy for the United States. To that end, my Subcommittee on Foreign Commerce and Tourism held extensive hearings in 1990 and 1991 on our export promotion programs. We consulted widely with Government officials and representatives of exporting businesses as well as those who are not as active exporters as they would like to be.

As a result of those hearing, last year I introduced legislation, S. 1721, that would combine the two important export functions of marketing and finance and would take several other steps to end the patchwork of export promotion agencies that creates so much confusion. That bill would have created a Bureau of Trade Development and Trade Finance within the Department of Commerce in order to join the marketing functions of the United States and Foreign Commercial Service with the Commerce Department's Office of Trade Development and the export finance functions of the Eximbank.

Such an organization would enable USFCS offices in the United States to act effectively as Eximbank branch offices, spreading the word about marketing and finance to new exporters, assisting in the preparation of applications for Bank programs, and keeping in touch with the customers while the application is processed in Washington. The effect would be a powerful agency that would provide exporters with efficient one stop shopping for U.S. Government export promotion and finance services.

In my experience in West Virginia, such outreach is critical for those either not aware of the Bank's activities or not involved in exporting at all. My friend Roger Fortner runs the Charleston office of the United States and Foreign Commercial Service. He does a remarkable job putting exporters in touch with the various Government agencies that can help them, and maintaining a network of contacts that enables West Virginians to expand their markets and increase their sales.

Roger Fortner and his counterparts could do a lot more as part of a strong and dynamic agency that can assist with financing, as well as marketing. The USFCS officers should be helping small- and medium-sized exporters find the Eximbank and fill out its paperwork. Their mission should include teaching potential American exporters about the programs the Bank offers, from export insurance to loan guarantees to lines of credit to direct loans. With this unified U.S. Government export promotion and finance service, American exporters would not be at a competitive disadvantage in their fight to capture foreign markets.

Mr. President, I am convinced that the Federal Government must establish a unified trade promotion and finance organization if we are to provide American exporters with a sophisticated and coordinated program of export enhancement program. I am disappointed that we are not taking that important step today, but it is said that politics is the art of the possible. I am therefore pleased that it was possible for several of the provisions I proposed in S. 1721 to be included in the Banking Committee's bill. They are:

Reauthorization of Eximbank "war chest" for 3 years.

Providing for 100 percent cover on Bank export credit guarantees.

Making the Trade Promotion Coordinating Committee [TPCC] a permanent, statutory body.

Giving the TPCC specific responsibilities for coordinating the development of trade promotion policies of the U.S. Government and eliminating duplication among them.

Introducing the one-stop shop concept in the Commerce Department, whereby the USFCS field offices will provide exporters with information on all export promotions programs of the U.S. Government.

Requiring the USFCS to do outreach for the Eximbank and, in turn, requiring the Bank to make the necessary information and training available to accomplish that.

In addition, the committee included a suggestion I had made, along with the U.S. Chamber of Commerce, which was not included in S. 1721—that the TPCC, in addition to its coordinating duties, would assess budget allocations for the various export promotion programs in the Government and make recommendations based on this assessment.

On another subject, I am also pleased to note that the Banking Committee approved as part this bill the text of S. 2102, which I cosponsored with Senator GARN. This provision would amend the International Emergency Economic Powers Act [IEEPA] to prohibit the President from considering failure of Congress to pass a bill, or his veto of a bill, a national emergency under IEEPA. This is an obscure but important good-government step that will make it more difficult for the President to dispense with the legislative branch of the Government when he finds it inconvenient, as he has done with our export control laws.

The Export Administration Act [EAA] expired in October, 1990. Shortly afterward, Congress sent the President an extension, which he vetoed after Congress adjourned. At the time the act initially expired, the President declared a national emergency pursuant to the IEPPA and reimposed the provisions of the EAA by Executive order. While that may be appropriate and tolerable for a short time pending congressional action, it is now nearly 2 years later, and the President has been operating essentially by fiat the entire time, and, in my judgment, Mr. President, at the same time discouraging Congress from acting to renew the EAA. That legislation is now in conference—the Senate passed its version in February 1991—and I hope for a conclusion before adjournment. Using IEPPA to cover for the absence of a law, however, distorts the purpose of IEPPA, which gives the President the broad powers he needs in cases of a genuine emergency, and it encourages the administration to refrain from working with the Congress to develop mutually acceptable legislation.

Let me also, Mr. President, commend the Banking Committee for including in its bill the John Heinz Competitiveness Award legislation that so many senators, including myself, cosponsored when the Senator from Alaska [Mr. STEVENS] introduced it last April. Senator Heinz cared tremendously about our country's competitiveness and its manufacturing base. He viewed it as a bipartisan issue and worked hard with many of us on both sides of the aisle to move the country forward, often over the objections of the current administration. This award is a fitting memorial to him, and I am delighted the committee has decided to include it in the bill.

The export promotion provisions I referred to, are an important step forward, but there are other refinements of the committee bill that should be made. Accordingly, I have proposed three amendments. The first two relate to the functioning of the Trade Policy Coordinating Committee, for which the bill provides a statutory basis. One amendment would require that the members of the TPCC be at sufficiently high policy levels in their agencies to ensure that TPCC decisions and recommendations will be fully implemented within the agencies. The second elaborates on the duties given the TPCC in the bill by requiring it, in conjunction with the Director of the Office of Management and Budget, to propose an annual unified export promotion budget to the President. This budget will give the TPCC a real opportunity to address both the redundancy and priority problems that have plagued our export promotion programs.

The final amendment elaborates on the provision in the bill which I had suggested that gives USFCS officers the obligation to provide exporters with information on the Eximbank and export finance. The amendment would expand that obligation to require that the information also be made available to export finance institutions, since many inquiries and applications come from local banks as well as directly from exporters.

These amendments will further enhance our efforts to develop a comprehensive, coordinated export promotion policy. The Banking Committee deserves our praise for its commitment to that goal and for its willingness to work with those of us who do not serve on the committee who are also interested in export promotion. With the adoption of this bill, we are taking an important step in the implementation of the national economic leadership strategy and in the creation of a world class export policy that will once again make America an effective competitor in the global marketplace.

Mr. WIRTH. Mr. President, I rise today to draw my colleagues' attention to several important provisions to promote American exports of environmental goods, services, and technology which have been included in the manager's amendment to the Export-Import Bank reauthorization.

During the current Presidential campaign, we have been subjected to a steady stream of political rhetoric about the choice that supposedly must be made between jobs and the environment. Yet it has become abundantly clear that this is a false choice. Environment and economics are inextricably linked. Today, environmental awareness is spreading across the globe as economies mature, populations grow and threats to the ecosystem become more apparent. This translates into growing environmental opportunities for American industry to export the goods and services of the 1990's and beyond.

We in America have built a tremendous record of leadership and achievement on environmental issues. We celebrated Earth Day more than 20 years ago, and in the ensuing two decades have established the first and highest environmental standards of any nation on Earth. We now need to expand our field of vision and action to the entire globe.

Other nations—Japan and Germany foremost among them—have recognized the tremendous opportunities presented by the rapid development of international environmental awareness. Japanese industries, in fact, have been working together to create a 100-year industrial plan for environmental technology. In spite of our early leadership, Japan already dominates the environmental markets in Southeast Asia.

The United States today is in danger of losing the comparative advantage we established as the early leader in the environmental movement. We have already made enormous investments in clean technology for our air, water, and soil. It is now time to cash in on these investments. Having led the world in the development of technology for environmental protection, we must now work aggressively to expand this technology and export it globally. If we do not capture this opportunity, our competitors will.

The global environmental market is now more than $250 billion—and is expected to grow dramatically throughout the 1990's, reaching more than $400 billion by 1996. Tens of thousands of U.S. companies today employ 1 million Americans in the provision of environmental technologies, goods, and services. Environmental policies can work to make America more competitive and generate more jobs—if we have the necessary vision and leadership. By hanging back, this administration jeopardizes more than our current 40-percent share of the market for environmental goods and services. We also

put at risk our broader claim to scientific and diplomatic leadership on a global scale.

Senators GORE, BIDEN, ROCKEFELLER, LIEBERMAN, BINGAMAN, and myself have been developing comprehensive legislation which we will be introducing in the near future to put the full force of the U.S. Government behind a number of initiatives to promote, nurture and sustain U.S. exports of environmental goods, services and technology.

As with much of the legislation considered in Congress, the provisions in our bill fall into the jurisdictions of different committees. Several key provisions of the legislation are within the jurisdiction of the Committee on Banking, Housing and Urban Affairs. With the help of Chairman RIEGLE and Senator SARBANES, chairman of the Subcommittee on International Finance and Monetary Policy, these provisions have been included in the manager's amendment to the Eximbank reauthorization.

Included in the bill is a provision to establish an environmental trade working group as a statutory subcommittee of the Trade Promotion Coordination Committee, and require the chairperson of the Board to assess the effectiveness of Federal environmental export promotion programs, to recommend improvements, to ensure that the environmental export promotion programs of Federal agencies are coordinated, and to assess the extent to which these programs advance the goals established by international environmental agreements.

Another provision requires the Department of Commerce to prepare surveys of markets for environmental exports and to make the surveys, as well as information on Federal export promotion programs, available to U.S. producers of environmental goods and services. Moreover, it would authorize the designation of a foreign commercial service officer to serve as the environmental export assistance officer in countries that offer a promising market or are serious competitors for environmental exports. The officer would work to identify market opportunities and analyze government assistance programs to our competitors in order to determine how we can improve our own programs.

These important provisions build upon section 105 of the Eximbank reauthorization, which I included in the bill in committee. This section provides for Eximbank procedures to consider the environmental effects of certain projects, and directs the Bank to encourage exports of environmental goods and services. Again, I want to extend my appreciation to Senators RIEGLE and SARBANES for their help in including these provisions in the bill.

These provisions are not extreme or radical. They are a modest first step in a larger effort to offer leadership and direction in environmental trade and to develop our global competitiveness in an area of natural American strength. By better use of existing resources and programs, we can dramatically expand our share of this growing market—doing good for the environment and creating American jobs.

I hope that we can move forward to a conference with the House as soon as possible. I look forward to working with Senators RIEGLE and SARBANES to ensure that these provisions are retained in conference.

Mr. GARN. Mr. President, I rise in support of S. 2864, the Export Enhancement Act of 1992. The basic purpose of this legislation is to extend the charter of the Export-Import Bank which expires on September 30. It is vital that we avoid any disruption of the Bank's lending authority at a time when United States exporters are looking to the Bank to support expanding sales to Latin American and the newly emerging markets in the former Soviet Union.

The Bank has had a solid record of achievement under Chairman John Macomber. Exports assisted in 1991 were at their highest level in 10 years, up nearly 30 percent over 1990. The Bank is making innovative use of its guarantee authority, creating new mechanisms for financing smaller deals that are attracting commercial banks and small exporters to the Bank. In addition, a new and tougher international agreement restricting the use of tied aid credits has been negotiated that should limit this form of trade distorting subsidy.

In addition to reinforcing these efforts, the legislation would clear away a lot of outdated material from the charter, especially the limitations on lending to the Soviet Union that are remnants of the cold war. It would provide the Bank limited authority to match compensation offered by the bank regulatory agencies in order to ensure that qualified staff are not recruited away from our exporting effort. The bill would also strengthen U.S. export promotion efforts by putting the Trade Promotion Coordinating Committee in statute and providing for an annual strategy for all export promotion programs.

I would like particularly to discuss two provisions that I added to the legislation in committee. The first is an amendment to the International Emergency Economic Powers Act which would limit to 180 days the period of time during which IEEPA could be used for the routine business of extending or reinstating provisions of law that have lapsed due to inaction by the Congress or a veto by the President.

This provision is a response to the current situation with the Export Administration Act. The law has been out of force since September 30, 1990, first due to a Presidential veto and then due to inaction by the Congress for a year and a half. I opposed the veto and I have pursued legislation to get the EAA back on the books for 2 years. Nonetheless, the law remains out of force.

Our export control policy is sustained by a questionable state of emergency that is fraying with the passage of time and under the pressure of court challenges. It is a sad commentary that legislation like this is needed but there is no penalty for congressional inaction. And the legislative process has been so devalued that automatic procedures are necessary to force action.

This bill makes no dramatic changes in IEEPA. It simply says that use of emergency authority for routine extensions of law must be ratified by the Congress within 180 days or the authority expires. It ensures that Congress must act within that time by requiring authorizing legislation and a resolution of approval to be introduced into both Houses and considered under expedited procedures. If Congress does its job within 180 days and extends the law, this bill has no effect. If Congress fails to pass legislation, it must ratify or strike down the resolution approving the state of emergency.

The administration may argue that this is an unacceptable limitation of the President's authority in emergencies. I disagree. The emergency here is legislative; the solution must be legislative action. This bill will do two things: it will force the Congress to do its job and it will end the unlimited use of emergency authorities by the President to overcome disputes between the White House and Congress.

A second provision would establish a Competitive Excellence Award in honor of John Heinz. This is the text of S. 2530, a bill introduced by Senator STEVENS that has 60 cosponsors. The amendment would authorize two annual awards for excellence in promoting U.S. industrial competitiveness: one for an individual and one for an organization, institution, or business that have best demonstrated competitive excellence.

These would be Senate awards, presented by the majority and minority leaders. Their decision would be based on the advice of a panel established by them and assisted in its deliberations by the Office of Technology Assessment. Acceptance of gifts from public and private sources would be authorized to defray the cost of implementing this act. I believe this legislation is a fitting tribute to a man who labored for many years in public life to promote the industrial competitiveness of our country.

I believe this legislation deserves the strong support of the Senate. Most important is keeping the Export-Import Bank in continuous operation in order to support sustained growth of U.S. exports. I urge the bill's adoption.

Mr. BIDEN. I rise to highlight several environmental provisions included in the manager's amendments to the Exim reauthorization bill. These are provisions that I strongly support, and I would like to commend the efforts of Senator WIRTH in working to include them in this legislation.

The amendments represent first steps toward helping American businesses in one of the fastest growing global markets—the environmental goods and services market. The amendments Senator WIRTH, myself, and several other Senators have worked to include in this bill will help improve the coordination of assistance to American companies that are looking to sell environmental goods and services abroad.

The changes we have proposed will also focus responsibility for the development of environmental export assistance programs, both across the Federal Government and within individual agencies.

The amendment will establish an environmental trade working group within the Trade Promotion Coordination Committee. Although this working group may never become a high-profile organization in the public's mind, it will bring together representatives of Federal agencies that have the tools in hand to help the export of environmental goods and services. It may never be well-known, but if used effectively, the working group could bring about a huge jump in these exports.

The amendment calls for the designation of an environmental export assistance officer in our Embassies in nations that are either key markets for environmental exports, or are important competitors of ours in the global market. This change will not only help keep American companies abreast of opportunities around the world, but will also help policymakers react quickly when American businesses are being victimized by unfair trading practices.

The changes in this amendment are a start. I will be introducing legislation shortly that will build on these initial steps, bringing further tools to bear in support of this growing market. The provisions in this amendment, and in the legislation I will introduce in September, build on the vast experience of American companies in developing technologies to respond to environmental threats and to control pollutants. Contrary to the assertions of many, environmental protection and jobs can go hand in hand.

In fact, a recent study by the Organization for Economic Cooperation and Development found that roughly 800,000 Americans were employed in companies that produce environmental goods or provide environmental services. The report also found that the export of environmental goods and services added $4 billion to our Nation's trade balance.

As I have stated, the provisions in this bill are a start. I believe there is much more we can do to take full advantage of the opportunities our Nation has to become the world leader in environmental goods and services trade. And I look forward to working with Senator WIRTH and other Members interested in this issue in making the possibility a reality.

The PRESIDING OFFICER. Without objection, the amendment is agreed to, and the committee substitute, as amended, is agreed to.

The question is on the third reading of the bill.

The bill was read the third time.

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Senate proceed to the House companion bill, H.R. 5739; that all after the enacting clause be stricken and the text of S. 2864, as amended, be substituted in lieu thereof; that the bill be read a third time and passed; that the Senate insist on its amendment and request a conference with the House on disagreeing votes of the two Houses; and that the Chair be authorized to appoint conferees.

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

So the bill (H.R. 5739) as amended, was passed.

Mr. MITCHELL. I ask unanimous consent that S. 2864 be indefinitely postponed.

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

ORDER TO REPRINT H.R. 5679 AND SENATE REPORT 102-356

Mr. MITCHELL. Mr. President, I ask unanimous consent that H.R. 5679, as reported by the Committee on Appropriations, and the report accompanying this bill, Senate Report 102-356, be reprinted due to technical and printing errors in the initial printing of the bill and report.

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

COMMUNICATIONS ACT AMENDMENTS

Mr. MITCHELL. Mr. President, I ask that the Chair lay before the Senate a message from the House of Representatives on S. 12.

The PRESIDING OFFICER laid before the Senate the following message from the House of Representatives:

Resolved, That the House insist upon its amendments to the bill (S. 12) entitled "An Act to amend title VI of the Communications Act of 1934 to ensure carriage on cable television of local news and other programming and to restore the right of local regulatory authorities to regulate cable television rates, and for other purposes", and ask a conference with the Senate on the disagreeing votes of the two Houses thereon.

Ordered, That Mr. Dingell, Mr. Markey, Mr. Tauzin, Mr. Eckart, Mr. Manton, Mr. Hall of Texas, Mr. Harris, Mr. Lent, Mr. Rinaldo, Mr. Bilirakis, and Mr. Fields be the managers of the conference on the part of the House: *Provided*, That Mr. Ritter is appointed in place of Mr. Fields for consideration of so much of section 16 of the Senate bill as would add a new section 614(g) to the Communications Act of 1934 and so much of section 5 of the House amendment as would add a new section 614(f) to the Communications Act of 1934.

Mr. MITCHELL. Mr. President, pursuant to the previous order of August 6, I now move that the Senate disagree to the House amendments, agree to the request for a conference, and that the Chair be authorized to appoint conferees.

The PRESIDING OFFICER. The question is on agreeing to the motion.

The motion was agreed to.

Mr. MITCHELL. Mr. President, I move to reconsider the vote by which the motion was agreed to.

Mr. DOLE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER appointed Mr. HOLLINGS, Mr. INOUYE, Mr. FORD, Mr. DANFORTH, and Mr. PACKWOOD conferees on the part of the Senate.

TRAVEL AND TOURISM IN THE UNITED STATES

Mr. MITCHELL. Mr. President, I ask that the Chair lay before the Senate a message from the House of Representatives on S. 680.

The PRESIDING OFFICER laid before the Senate the following message from the House of Representatives:

Resolved, That the bill from the Senate (S. 680) entitled "An Act to amend the International Travel Act of 1961 to assist in the growth of international travel and tourism into the United States, and for other purposes," do pass with the following amendments:

Strike out all after the enacting clause, and insert:

SECTION 1. SHORT TITLE, REFERENCE.

(a) SHORT TITLE.—This Act may be cited as the "Tourism Policy and Export Promotion Act of 1991".

(b) REFERENCE.—Whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the International Travel Act of 1961 (22 U.S.C. 2121 and following).

SEC. 2. FINDINGS.

The Congress finds that—

(1) the travel and tourism industry is the second largest retail or service industry in the United States,

(2) travel and tourism receipts make up over 6.7 percent of the United States gross national product,

(3) travel and tourism expenditures last year were approximately $327 billion;

(4) in 1990, the travel and tourism industry generated about 6 million jobs directly and about 2.5 million indirectly,

(5) 39 million international visitors spent approximately $52.8 million in the United States last year,

(6) travel and tourism services ranked as the largest United States export in 1989,

(7) many local communities with significant tourism potential are unable to realize the economic and employment opportunities that tourism provides because they lack the necessary local resources and expertise needed to induce tourism trade,

(8) increased efforts directed at the promotion of rural tourism will contribute to the economic development of rural America and further the conservation and promotion of natural, scenic, historic, scientific, educational, inspirational, and recreational resources for future generations of Americans and foreign visitors,

(9) foreign tourists entering the United States are frequently faced with unnecessary delays at the United States border,

(10) advanced technologies, industrial targeting, the industrialization of the Third World, and the flight of some United States manufacturing capacity to overseas locations have affected the international competitiveness of the United States,

(11) exporting those goods and services which United States industry can produce at a comparative cost-advantage, such as travel and tourism services, will be in the Nation's long-term strategic interest, and

(12) the emergence of democratic governments in the formerly Communist nations of Eastern Europe provides new opportunities for United States firms engaged in both the inbound and outbound tourism markets.

SEC. 3. POLICY CLARIFICATIONS.

(a) NATIONAL TOURISM POLICY.—

(1) Section 101(b)(1) (22 U.S.C. 2121(b)(1)) is amended to read as follows:

"(1) optimize the contributions of the tourism and recreation industries to the position of the United States with respect to international competitiveness, economic prosperity, full employment, and balance of payments;".

(2) Section 101(b) (22 U.S.C. 2121(b)) is amended—

(A) by redesignating paragraphs (2) through (12) as paragraphs (6) through (16), respectively, and

(B) by inserting immediately after paragraph (1) the following new paragraphs:

"(2) increase United States export earnings from United States tourism and transportation services traded internationally;

"(3) ensure the orderly growth and development of tourism;

"(4) coordinate and encourage the development of the tourism industry in rural communities which—

"(A) have been severely affected by the decline of agriculture, family farming, or the extraction or manufacturing industries, or by the closing of military bases; and

"(B) have the potential necessary to support and sustain an economy based on tourism;

"(5) promote increased and more effective investment in international tourism by the States, local governments, and cooperative tourism marketing programs;".

(b) DUTIES OF SECRETARY OF COMMERCE.—

(1) Section 201 (22 U.S.C. 2122) is amended—

(A) by redesignating paragraphs (2) through (6) as paragraphs (3) through (7), respectively,

(B) in paragraph (3), as so redesignated, by striking out "tourist facilities," and all that follows and inserting in lieu thereof the following: "receptive, linguistic, informational, currency exchange, meal, and package tour services required by the international market;",

(C) by inserting immediately after paragraph (1) the following:

"(2) provide export promotion services that will increase the number of States, local governments (as defined in section 3371(2) of title 5, United States Code), and companies in the United States that sell their tourism services in the international market, expand the number of foreign markets in which exporting States, cities, and companies are active, and inform States, cities, and companies in the United States regarding the specialized services the international market requires;", and

(D) by striking out "and" at the end of paragraph (6) (as so redesignated), by striking out the period at the end of paragraph (7) (as so redesignated) and inserting "; and", and by adding after such paragraph (7) the following:

"(8) advise and provide information and technical assistance to United States firms seeking to facilitate travel to and from the emerging democracies of Eastern Europe and compile statistics regarding such travel.".

(2) Section 202(a)(9) (22 U.S.C. 2123(a)(9)) is amended by striking out "United States travel and tourism interests" and inserting in lieu thereof "the United States national tourism interest".

(c) AUTHORIZATION REGARDING CERTAIN EXPENDITURES.—Section 202 (22 U.S.C. 2123) is amended by adding at the end the following:

"(e) Funds appropriated to carry out this Act may be expended by the Secretary without regard to the provisions of sections 501 and 3702 of title 44, United States Code. Funds appropriated for the printing of travel promotional materials shall remain available for two fiscal years.".

(d) REPEAL.—Section 203 (22 U.S.C. 2123a) is repealed.

(e) TOURISM POLICY COUNCIL.—

(1) Section 302(b)(1) (22 U.S.C. 2124a(b)(1)) is amended—

(A) by redesignating subparagraphs (H) and (I) as subparagraphs (O) and (P), and

(B) by inserting immediately after subparagraph (G) the following:

"(H) the Secretary of Agriculture;

"(I) the Chairman of the Tennessee Valley Authority;

"(J) the Commanding General of the Corps of Engineers of the Army, within the Department of Defense;

"(K) the Administrator of the Small Business Administration;

"(L) the Commissioner of the Immigration and Naturalization Service;

"(M) the President of the National Railroad Passenger Corporation;

"(N) the Commissioner of Customs;".

(2) Section 302(d) (22 U.S.C. 2124a(d)) is amended by adding at the end the following:

"(4)(A) Every year, upon designation by the Secretary in accordance with subparagraph (B), up to 3 Federal departments and agencies represented on the Council shall each detail to the Council for that year one staff person and associated resources.

"(B) In making the designation referred to in subparagraph (A), the Secretary shall designate a different group of agencies and departments each year and shall not redesignate any agency or department until all the other agencies and departments represented on the Council have been designated the same number of years.".

SEC. 4. TOURISM TRADE DEVELOPMENT.

(a) ANNUAL PLAN.—

(1) Section 202(a)(15) (22 U.S.C. 2123(a)(15)) is amended by striking out "marketing" and inserting in lieu thereof "tourism trade development".

(2) Section 202 (22 U.S.C. 2123), as amended by section 3(c), is amended by adding at the end the following:

"(f)(1) The Secretary's tourism trade development efforts shall focus on markets which have the greatest potential for increasing travel and tourism export revenues.

"(2)(A) The Secretary shall carry out a generic promotion program which shall be the only direct marketing activity in which the Secretary shall be engaged under this Act. In addition to generic promotion, the Secretary shall carry out tourism trade development efforts pursuant to subparagraphs (B) through (E).

"(B) By March 31 of each year, the Secretary shall publish a notice in the Federal Register soliciting comment, from persons interested in tourism trade, concerning markets that would be an appropriate focus of tourism trade development efforts to be carried out in the 12-month period that begins 6 months after the notice is published.

"(C) Within 3 months after the notice is published under subparagraph (B), the Secretary shall select the markets that the Secretary determines are an appropriate focus of tourism trade development efforts to be carried out in the 12-month period described in subparagraph (B). The selection shall be announced by publication in the Federal Register.

"(D)(i) At the same time the Secretary announces the selection of markets under subparagraph (C), the Secretary shall issue a request for proposals from States and political subdivisions of States, cooperative tourism marketing programs, and appropriate nonprofit organizations and associations to develop and implement tourism trade development programs applicable to the markets so selected. The Secretary shall award grants to carry out proposals submitted under this subparagraph. Such grants shall be awarded no later than 6 months after the notice is published under subparagraph (B).

"(ii) The total amount of grants awarded under clause (i) by the Secretary shall—

"(I) in fiscal year 1993, be not less than 35 percent of the amount appropriated to the Secretary to carry out the duties authorized under this Act for that fiscal year, and

"(II) in subsequent fiscal years, be not less than 40 percent of the amount appropriated to the Secretary to carry out the duties authorized under this Act for that fiscal year.

"(E)(i) During the 12-month period described in subparagraph (B), the Secretary shall carry out generic advertising and other tourism trade development efforts directed at the markets selected under subparagraph (C).

"(ii) To reinforce the efforts carried out under clause (i), the Secretary shall establish tourism trade development offices in foreign locations appropriate for the markets selected under subparagraph (C).

"(3) The Secretary shall evaluate the effectiveness of the efforts carried out under paragraph (2)(E) and, not later than one year after the end of the 12-month period described in subparagraph (B), shall report to Congress on the results of the evaluation.".

(b) ADVISORY BOARD.—

(1) Section 303(a)(3) (22 U.S.C. 2124b(a)(3)) is amended—

(A) in subparagraph (A), by striking out "and",

(B) in subparagraph (B), by striking out "one shall be a representative of the States who is" and inserting in lieu thereof "two shall be representatives of the States who are" and by striking out the period at the end and inserting in lieu thereof "; and", and

(C) by adding at the end the following:

"(C) at least one shall be a representative of a city who is knowledgeable of tourism promotion.".

(2) The last sentence of section 303(b) (22 U.S.C. 2124b(b)) is amended by striking out

"two consecutive terms of three years each" and inserting in lieu thereof "six consecutive years or nine years in the aggregate".

(3) The first sentence of section 303(f) (22 U.S.C. 2124b(f)) is amended—

(A) by striking out "and" and inserting in lieu thereof a comma, and

(B) by inserting immediately before the period at the end the following: ", and when the plan is submitted to the Congress, shall send to the Congress by separate communication the comments of the Board on the plan".

(c) CONFORMING AMENDMENTS.—

(1) Section 204 (22 U.S.C. 2123b) is amended by striking out "marketing" each place it appears and inserting in lieu thereof "tourism trade development".

(2) Section 303(f) (22 U.S.C. 2124b(f)) is amended—

(A) by striking out "Marketing" and inserting in lieu thereof "Trade Development", and

(B) by striking out "marketing" and inserting in lieu thereof "tourism trade development".

SEC. 5. TOURISM TRADE BARRIERS.

Title II is amended by adding at the end the following:

"SEC. 205. (a) For calendar year 1991 and each succeeding calendar year, the Secretary shall—

"(1) identify and analyze acts, policies, or practices of each foreign country that constitute significant barriers to, or distortions of, United States travel and tourism exports,

"(2) make an estimate of the trade-distorting impact on United States commerce of any act, policy, or practice identified under paragraph (1), and

"(3) make an estimate, if feasible, of the value of additional United States travel and tourism exports that would have been exported to each foreign country during such calendar year if each of such acts, policies, and practices of such country did not exist.

"(b) On or before March 31, 1992, and March 31 of each succeeding calendar year, the Secretary shall submit to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Energy and Commerce of the House of Representatives a report on the analysis and estimates made under subsection (a) for the preceding calendar year. The report shall include any recommendation for action to eliminate any act, policy, or practice identified under subsection (a).".

SEC. 6. ACTION TO FACILITATE ENTRY OF FOREIGN TOURISTS.

Title II, as amended by section 5, is amended by adding at the end the following:

"SEC. 206. (a) The Secretary shall, in coordination with appropriate Federal agencies, take appropriate action to ensure that foreign tourists are not unnecessarily delayed when entering the United States.

"(b) The Secretary shall, within one year of the date of the enactment of this section, report to the Congress on efforts undertaken under subsection (a) to improve visitor facilitation and the effect on United States travel and tourism as a result of those improvements.".

SEC. 7. GRANTS FOR LOCAL, STATE, AND REGIONAL TOURISM.

Title II, as amended by section 6, is amended by adding at the end the following:

"SEC. 207. (a)(1) The Secretary may make grants to cooperative tourism marketing programs under the authority of section 202(f) and this subsection.

"(2) To be eligible for a grant under paragraph (1) a cooperative tourism marketing program shall, at a minimum—

"(A) involve the participation of—

"(i) two or more States, or

"(ii) one or more States and one or more local governments,

"(B) be established for the purpose of increasing the number of foreign visitors to the region in which such States or local governments are located, and

"(C) have a written regional tourism marketing plan which includes advertising, publication of promotional materials, or other promotional or market research activities designed to increase the number of foreign visitors to such region.

"(b) A grant made under subsection (a) may be used for the purpose of—

"(1) promoting or marketing to foreign visitors or potential foreign visitors the tourism and recreational opportunities in the region for which such grant is sought,

"(2) targeting foreign visitors to develop or enhance their interest in tourism and recreational opportunities in such region, or

"(3) encouraging the development by such cooperative tourism marketing program of regional strategies for international tourism promotion and marketing.

"(c) A grant may be made under subsection (a) if the applicant for the grant demonstrates to the satisfaction of the Secretary that the grant will be used for a purpose described in subsection (b) and that—

"(1) such cooperative tourism marketing program for which the grant will be made will increase the travel of foreign visitors to the region for which the grant is sought,

"(2) such program will contribute to the economic well-being of such region,

"(3) such region is developing or has developed a regional transportation system that will enhance travel to the facilities and attractions in such region, and

"(4) such program will focus its efforts on those countries identified by the Secretary under section 202(f) as having the greatest potential for increasing travel and tourism export revenues in the applicable fiscal year.

"(d) In connection with a grant under subsection (a), a cooperative tourism marketing program may enter into agreements with individuals and private profit and nonprofit businesses and organizations who will assist in carrying out the purposes for which such grant is made. Such an agreement shall be disclosed in any application for a grant under subsection (a) and such an application may be approved by the Secretary only if the Secretary finds that such agreement meets all applicable legal requirements and is consistent with the purposes of this Act.

"(e) The Secretary may issue such rules and guidelines as may be necessary to carry out subsections (a) through (d).

"(f)(1) In fiscal years 1993 and 1994, the Secretary shall undertake on an annual basis at least 5 demonstration projects in geographically distinct regions of the United States with underutilized tourism potential to help develop tourism marketing programs in such region.

"(2) Demonstration projects under paragraph (1) shall use such resources as the Secretary shall make available to help identify and develop potential tourism attractions that the Secretary determines may be of interest to foreign tourists. In connection with such a project, the Secretary shall work with local units of government and other public and private entities to develop specific plans of action to—

"(A) identify local opportunities for inducing foreign tourism,

"(B) identify those foreign countries where there may be a significant interest in potential tourism attractions, and

"(C) develop and promote specific tourism marketing programs directed at likely foreign tourist groups using such resources both in this country and abroad as the Secretary may have available.

"(3) The expenditures for demonstration projects under paragraph (1) year shall in fiscal years 1993 and 1994 be not less than 3 percent of the amount appropriated in such fiscal year to the Secretary to carry out this Act.".

SEC. 8. PERFORMANCE OF THE UNITED STATES TRAVEL AND TOURISM ADMINISTRATION.

Title II, as amended by section 7, is amended by adding at the end the following:

"SEC. 208. (a) Beginning with the tourism trade development plan for fiscal year 1992 which is submitted to Congress under section 202(a)(15) and annually thereafter, the Secretary shall set forth in such plan the goals of the United States Travel and Tourism Administration, established under section 301, for the applicable forthcoming fiscal year, including quantifiable measures on which such Administration's performance can be evaluated. At a minimum, such goals shall include—

"(1) the number of written inquiries regarding the possibility of foreign travel to the United States expected to be generated by the efforts of the Secretary and of other persons receiving grants under this title,

"(2) the number of tour packages for foreign visitors to the United States expected to be sold in connection with the efforts of the Secretary and of other persons receiving grants under this title, and

"(3) the number of tourists from countries identified under section 202(f) expected to visit the United States destinations being promoted in such countries (including the number of international arrivals expected at gateway airports) in connection with the efforts of the Secretary and of other persons receiving grants under this title.

"(b) Beginning with the tourism trade development plan for fiscal year 1993 which is submitted to Congress under section 202(a)(15) and annually thereafter, the Secretary shall report in such plan the degree to which the goals set forth in the plan for the prior fiscal year have been attained. At a minimum such report shall include—

"(1) the number of written inquiries regarding the possibility of foreign travel to the United States actually received by the Secretary and by other persons receiving grants under this title,

"(2) the number of tour packages for foreign visitors to the United States actually sold in connection with the efforts of the Secretary and of other persons receiving grants under this title, and

"(3) the number of tourists from countries identified under section 202(f) that actually visited the United States destinations being promoted in such countries (including the number of international arrivals expected at gateway airports) in connection with the efforts of the Secretary and of other persons receiving grants under this title.

"(c) The Secretary shall collect from persons receiving grants under this title such information as may be necessary to enable the Secretary to comply with subsections (a) and (b). The Secretary may condition the making of any such grant on the agreement of the recipient to provide such information to the Secretary at such times and in such manner and form as the Secretary deems appropriate.

"(d) The Secretary shall, from time to time, conduct—

"(1) surveys of foreign tourists visiting the United States from countries identified under section 202(f), and

"(2) advertising effectiveness studies in such countries,

to evaluate the effectiveness of the program described in section 201(1).".

SEC. 9. COORDINATION.

Section 301 (22 U.S.C. 2124) is amended by adding at the end the following:

"(c) The Under Secretary of Commerce for Travel and Tourism shall continue to seek the assistance of the United States and Foreign Commercial Service as necessary to assist the Administration's foreign offices in stimulating and encouraging travel to the United States by foreign residents and in carrying out other powers and duties of the Secretary specified in section 202.".

SEC. 10. ADMINISTRATION.

(a) DEPUTY UNDER SECRETARY.—Section 301(a) (22 U.S.C. 2124(a)) is amended—

(1) by striking out the third and fourth sentences,

(2) by inserting "(1)" and "(a)", and

(3) by adding at the end the following:

"(2) The Secretary shall designate a Deputy Under Secretary for Tourism Trade Development who shall be drawn from, and serve as a member of, the career service. The Deputy Under Secretary shall have responsibility for—

"(A) facilitating the interaction between industry and government concerning tourism trade development,

"(B) directing and managing field operations,

"(C) directing program evaluation research and industry statistical research,

"(D) developing an outreach program to those communities with underutilized tourism potential to assist them in development of strategies for expansion of tourism trade,

"(E) developing a new program to provide financial assistance in support of non-Federal tourism trade development activities that complement efforts by the Secretary under section 202(f), and

"(F) perform such other functions as the Under Secretary may assign.".

(b) REGIONAL OFFICES.—Section 301(b) (22 U.S.C. 2124(b)) is amended to read as follows:

"(b)(1) There shall be 3 regional offices of the United States Travel and Tourism Administration which shall be based in, and responsible for, the following respective geographical areas:

"(A) Europe and Africa.

"(B) Asia and the Pacific Region.

"(C) North America, South America, and the Caribbean region.

"(2) Each such regional office shall monitor and direct the activities of—

"(A) the tourism trade development offices within the region as established under section 202(f), and

"(B) the country offices within the region that are responsible for mature markets.

For purposes of this paragraph, the term 'mature market' means a market in which the United States receives either more of the long-haul, outbound tourism traffic than any other country or as much of such traffic as reasonably can be expected under the circumstances.".

(c) LIMITATION ON CERTAIN EXPENDITURES.—Section 301 (22 U.S.C. 2124), as amended by section 9, is amended by adding at the end the following:

"(d) The expenditures for administrative expenses, including salaries and other overhead expenses, and for demonstration programs authorized under section 207, shall not exceed—

"(1) in fiscal year 1993, 45 percent of the amount appropriated to the Secretary to carry out the duties authorized under this Act for that fiscal year, and

"(2) in subsequent fiscal years, 40 percent of the amount appropriated to the Secretary to carry out the duties authorized under this Act for that fiscal year.".

SEC. 11. TOURISM DEVELOPMENT STUDY.

(a) REQUIREMENT TO ASSEMBLE INFORMATION.—The Secretary of Commerce shall assemble available information on economic activity associated with scenic and recreational travel. The Secretary shall consult with other departments and agencies of the United States which may have relevant data.

(b) STUDY.—The Secretary of Commerce shall conduct a study regarding—

(1) economic effects associated with the public identification and promotion of scenic travel as a tourist attraction,

(2) techniques for incorporating scenic travel into tourism development programs,

(c) REPORT.—Not later than one year after the date of the enactment of this Act, the Secretary of Commerce shall transmit to the Congress a report on the information assembled under subsection (a) and the results of the study conducted under subsection (b), including any recommendations based on that study.

SEC. 12. MONTHLY STATISTICAL REPORT.

Not later than January 1, 1992, the Secretary of Commerce shall publish on a monthly basis the statistical report on United States international travel receipts and payments published in the document known as "The Survey of Current Business", prepared by the Bureau of Economic Analysis within the Department of Commerce.

SEC. 13. TRAVEL BY DISABLED PERSONS.

The Secretary of Commerce shall, within 18 months of the date of the enactment of this Act, report to the Congress on activities of the Department of Commerce and other Federal agencies to increase tourism opportunities for, and encourage travel by, disabled persons.

SEC. 14. RURAL TOURISM DEVELOPMENT FOUNDATION.

(a) FINDINGS; ESTABLISHMENT OF FOUNDATION.—

(1) The Congress finds that increased efforts directed at the promotion of rural tourism will contribute to the economic development of rural America and further the conservation and promotion of natural, scenic, historic, scientific, educational, inspirational, or recreational resources for future generations of Americans and foreign visitors.

(2) In order to assist in the development and promotion of rural tourism, there is established a charitable and nonprofit corporation to be known as the Rural Tourism Development Foundation (hereafter in this section referred to as the "Foundation").

(b) FUNCTIONS.—The functions of the Foundation shall be the planning, development, and implementation of projects and programs which have the potential to increase travel and tourism export revenues by attracting foreign visitors to rural America. Initially, such projects and programs shall include—

(1) participation in the development and distribution of educational and promotional materials pertaining to both private and public attractions located in rural areas of the United States, including Federal parks and recreational lands, which can be used by foreign visitors,

(2) development of educational resources to assist in private and public rural tourism development, and

(3) participation in Federal agency outreach efforts to make such resources available to private enterprises, State and local governments, and other persons and entities interested in rural tourism development.

(c) BOARD OF DIRECTORS.—

(1)(A) The Foundation shall have a Board of Directors (hereafter in this section referred to as the "Board") that—

(i) during its first 2 years shall consist of 9 voting members, and

(ii) thereafter shall consist of those 9 members plus up to 6 additional voting members as determined in accordance with the bylaws of the Foundation.

(B)(i) The Under Secretary of Commerce for Travel and Tourism shall, within 6 months after the date of enactment of this Act, appoint the initial 9 voting members of the Board and thereafter shall appoint the successors of each of 3 such members, as provided by such bylaws.

(ii) The voting members of the Board, other than those referred to in clause (i), shall be appointed in accordance with procedures established by such bylaws.

(C) The voting members of the Board shall be individuals who are not Federal officers or employees and who have demonstrated an interest in rural tourism development. Of such voting members, at least a majority shall have experience and expertise in tourism trade promotion, at least 1 shall have experience in resource conservation, at least 1 shall have experience and expertise in financial administration in a fiduciary capacity, at least 1 shall be a representative of an Indian tribe who has experience and expertise in rural tourism on an Indian reservation, at least 1 shall represent a regional or national organization or association with a major interest in rural tourism development or promotion, and at least 1 shall be a representative of a State who is responsible for tourism promotion.

(D) Voting members of the Board shall each serve a term of 6 years, except that—

(i) initial terms shall be staggered to assure continuity of administration,

(ii) if a person is appointed to fill a vacancy occurring before the expiration of the term of the person's predecessor, that person shall serve only for the remainder of the predecessor's term, and

(iii) any such appointment to fill a vacancy shall be made within 60 days after the vacancy occurs.

(2) The Under Secretary of Commerce for Travel and Tourism and representatives of Federal agencies with responsibility for Federal recreational sites in rural areas (including the National Park Service, Bureau of Land Management, Forest Service, Corps of Engineers, Bureau of Indian Affairs, Tennessee Valley Authority, and such other Federal agencies as the Board determines appropriate) shall be nonvoting ex officio members of the Board.

(3) The Chairman and Vice Chairman of the Board shall be elected by the voting members of the Board for terms of two years.

(4) The Board shall meet at the call of the Chairman and there shall be at least two meetings each year. A majority of the voting members of the Board serving at any one time shall constitute a quorum for the transaction of business. The Foundation shall have an official seal, which shall be judicially noticed. Voting membership on the Board shall not be deemed to be an office within the meaning of the laws of the United States.

(d) COMPENSATION AND EXPENSES.—No compensation shall be paid to the members of

the Board for their services as members, but they may be reimbursed for actual and necessary traveling and subsistence expenses incurred by them in the performance of their duties as such members out of Foundation funds available to the Board for such purposes.

(e) ACCEPTANCE OF GIFTS, DEVISES, AND BEQUESTS.—(1) The Foundation is authorized to accept, receive, solicit, hold, administer, and use any gifts, devises, or bequests, either absolutely or in trust, of real or personal property or any income therefrom or other interest therein for the benefit of or in connection with rural tourism, except that the Foundation may not accept any such gift, devise, or bequest which entails any expenditures other than from the resources of the Foundation. A gift, devise, or bequest may be accepted by the Foundation even though it is encumbered, restricted, or subject to beneficial interests of private persons if any current or future interest therein is for the benefit of rural tourism.

(2) A gift, devise, or bequest accepted by the Foundation for the benefit of or in connection with rural tourism on Indian reservations, pursuant to the Act of February 14, 1931 (25 U.S.C. 451), shall be maintained in a separate accounting for the benefit of Indian tribes in the development of tourism on Indian reservations.

(f) INVESTMENTS.—Except as otherwise required by the instrument of transfer, the Foundation may sell, lease, invest, reinvest, retain, or otherwise dispose of or deal with any property or income thereof as the Board may from time to time determine. The Foundation shall not engage in any business, nor shall the Foundation make any investment that may not lawfully be made by a trust company in the District of Columbia, except that the Foundation may make any investment authorized by the instrument of transfer and may retain any property accepted by the Foundation.

(g) PERPETUAL SUCCESSION; LIABILITY OF BOARD MEMBERS.—The Foundation shall have perpetual succession, with all the usual powers and obligations of a corporation acting as a trustee, including the power to sue and to be sued in its own name, but the members of the Board shall not be personally liable, except for malfeasance.

(h) CONTRACTUAL POWER.—The Foundation shall have the power to enter into contracts, to execute instruments, and generally to do any and all lawful acts necessary or appropriate to its purposes.

(i) ADMINISTRATION.—(1) In carrying out the provisions of this section, the Board may adopt bylaws, rules, and regulations necessary for the administration of its functions and may hire officers and employees and contract for any other necessary services. Such officers and employees shall be appointed without regard to the provisions of title 5, United States Code, governing appointments in the competitive service and may be paid without regard to the provisions of chapters 51 and 53 of such title relating to classification and General Schedule pay rates.

(2) The Secretary of Commerce may accept the voluntary and uncompensated services of the Foundation, the Board, and the officers and employees of the Foundation in the performance of the functions authorized under this section, without regard to section 1342 of title 31, United States Code, or the civil service classification laws, rules, or regulations.

(3) Neither an officer or employee hired under paragraph (1) nor an individual who provides services under paragraph (2) shall be considered a Federal employee for any purpose other than for purposes of chapter 81 of title 5, United States Code, relating to compensation for work injuries, and chapter 171 of title 28, United States Code, relating to tort claims.

(j) EXEMPTION FROM TAXES; CONTRIBUTIONS.—The Foundation and any income or property received or owned by it, and all transactions relating to such income or property, shall be exempt from all Federal, State, and local taxation with respect thereto. The Foundation may, however, in the discretion of the Board, contribute toward the costs of local government in amounts not in excess of those which it would be obligated to pay such government if it were not exempt from taxation by virtue of this subsection or by virtue of its being a charitable and nonprofit corporation and may agree so to contribute with respect to property transferred to it and the income derived therefrom if such agreement is a condition of the transfer. Contributions, gifts, and other transfers made to or for the use of the Foundation shall be regarded as contributions, gifts, or transfers to or for the use of the United States.

(k) LIABILITY OF UNITED STATES.—The United States shall not be liable for any debts, defaults, acts, or omissions of the Foundation.

(l) ANNUAL REPORT.—The Foundation shall, as soon as practicable after the end of each fiscal year, transmit to Congress an annual report of its proceedings and activities, including a full and complete statement of its receipts, expenditures, and investments.

(m) DEFINITIONS.—As used in this section—

(1) the term "Indian reservation" has the meaning given the term "reservation" in section 3(d) of the Indian Financing Act of 1974 (25 U.S.C. 1452(d)),

(2) the term "Indian tribe" has the meaning given that term in section 4(e) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b(e)),

(3) the term "local government" has the meaning given that term in section 3371(2) of title 5, United States Code, and

(4) the term "rural tourism" has the meaning given that term by the Secretary of Commerce and shall include activities related to travel and tourism that occur on Federal recreational sites, on Indian reservations, and in the territories, possessions, and commonwealths of the United States.

(n) ASSISTANCE BY SECRETARY OF COMMERCE.—Section 202(a) (22 U.S.C. 2123(a)) is amended—

(1) by striking out "and" at the end of paragraph (14),

(2) by striking out the period at the end of paragraph (15) and inserting in lieu thereof "; and", and

(3) by adding at the end the following new paragraph:

"(16) may assist the Rural Tourism Development Foundation, established under the Tourism Policy and Export Promotion Act of 1991, in the development and promotion of rural tourism.".

SEC. 15. STATISTICAL REPORTS.

(a) SURVEY OF INTERNATIONAL AIR TRAVELERS.—The Secretary of Commerce, to the extent available resources permit, shall improve the survey of international air travelers conducted to provide the data needed to estimate the Nation's balance of payments in international travel by—

(1) expanding the survey to cover travel to and from the Middle East, Africa, South America, and the Caribbean and enhancing coverage for Mexico, Oceania, the Far East, and Europe; and

(2) improving the methodology for conducting on-board surveys by (A) enhancing communications, training, and liaison activities in cooperation with participating air carriers, (B) providing for the continuation of needed data bases, and (C) utilizing improved sampling procedures.

The Secretary of Commerce shall seek to increase the reporting frequency of the data provided by Statistics Canada and the Bank of Mexico on international travel trade between the United States and both Canada and Mexico. The Secretary shall improve the quarterly statistical report on United States international travel receipts and payments published in the Bureau of Economic Analysis document known as "The Survey of Current Services" and heighten its visibility.

(b) REPORT TO CONGRESS.—The Secretary of Commerce shall, within 18 months after the date of the enactment of this Act, report to the Congress on—

(1) the status of the efforts required by subsection (a); and

(2) the desirability and feasibility of publishing international travel receipts and payments on a monthly basis.

(c) REPORT.—Not later than 12 months after the date of the enactment of this Act, the Secretary of Commerce shall submit to the Committee on Commerce, Science and Transportation of the Senate and the Committee on Energy and Commerce of the House of Representatives a report on the Secretary's efforts under section 201(8) of the International Travel Act of 1961, including statistics regarding the inbound and outbound tourism trade between the United States and emerging democracies of Eastern Europe. Such statistics shall include the number of inbound and outbound tourists, receipts from, and expenditures by, such tourists and number of tourists traveling into and out of Eastern Europe on American carriers.

SEC. 16. AUTHORIZATION OF APPROPRIATIONS.

Section 304 (22 U.S.C. 2126) is amended—

(1) in the first sentence, by inserting immediately before the period the following: ", not to exceed $18,000,000 for fiscal year 1993, not to exceed $19,000,000 for fiscal year 1994, and not to exceed $20,000,000 for fiscal year 1995", and

(2) by striking out the last two sentences.

Amend the title so as to read: "An Act to amend the International Travel Act of 1961 to assist in the growth of international travel and tourism in the United States, and for other purposes.".

Mr. ROCKEFELLER. Mr. President, today, I will be offering an amendment in the nature of a substitute to S. 680, the Tourism Policy and Export Promotion act of 1992. The original bill was cosponsored by every member of the Commerce Committee. This legislation is truly the result of a bipartisan effort. House and Senate versions of S. 680 have been on the Senate Calendar since last fall. House and Senate Commerce Committee staff, both majority and minority have been meeting over the last 9 months to come up with a compromise. The substitute amendment represents just that—a compromise between the House and Senate. As many of my colleagues know, we have not had an authorization for the U.S. Travel and Tourism Administra-

tion [USITA] in 12 long years. When I assumed the chair of the Foreign Commerce and Tourism Subcommittee in 1987, I asked the tourism community what needed to be done—they were unanimous in telling me USTTA needed to be authorized. There had been significant problems with the House Appropriations Committee because of the lack of an authorization. I introduced a USTTA authorization bill in 1989, and that bill, similar in some respects to the one we are considering today, passed the Senate without a dissenting vote in the 101st Congress. I then went to Chairman DINGELL of the House Energy and Commerce Committee to ask for his assistance and cooperation, which he provided. Unfortunately, we were not able to reach an agreement before adjournment sine die.

In the course of the negotiations with Chairman DINGELL in 1990, I realized that the chairman had very serious concerns about the way the agency had been run. So, in 1991, I began to examine Chairman DINGELL's concerns and address them through suggested changes to the tourism bill. The industry had made similar recommendations in July of 1991. Some of these recommendations were incorporated in S. 680, which passed the Senate by unanimous consent in October. At the same time Congressman SWIFT, the new chairman of the Transportation and Hazardous Materials Subcommittee, in conjunction with Chairman DINGELL, was moving a tourism bill through the House for the first time since 1980.

I want to thank Chairman DINGELL for his cooperation on this bill, I really appreciate it. I also want to thank Congressman SWIFT for his diligence and cooperation. Without these efforts, we would not be considering this compromise today. They have both worked long and hard and because of that, the USTTA authorization will be a much better piece of legislation. I fully understand Chairman DINGELL's criticisms of the agency's past conduct, but I also believe this bill is a start toward reforming the Agency to better serve all the component parts of the tourism industry, particularly the States and cities, and the interests of this country as a whole.

We have a great untold story here. Tourism is our largest export—it generated a $16.8 billion surplus in 1991. We had 42 million international visitors last year and they spent almost $60 billion in this country. The industry employs almost 6 million Americans and generated expenditures in 1991 of $352 billion.

What we need to do is bring our tourism policy into the 1990's and build on this growing trade surplus. I know first hand the benefits of tourism. When I was Governor of West Virginia, I hired a tourism director and beefed up our tourism budget. Now, tourists spend $1.2 billion in West Virginia, revenues we sorely need. That is why I am so pleased to see Senate consideration of S. 680, the tourism bill. It is my hope that the bill will help to give tourism the high priority it deserves.

I want to outline for my colleagues the provisions of this amendment in the nature of a substitute. Section 1 is the title of the bill. Section 2 contains the findings. Section 3 requires USTTA to improve its survey of international air travelers by expanding it and improving the methodology for conducting on-board surveys and by seeking to increase the reporting frequency of data provided Mexico and Canada. Section 4 establishes a Rural Tourism Foundation to assist in the development and promotion of rural tourism. This Foundation has long been advocated by Senator BURNS, ranking member of the Foreign Commerce and Tourism Subcommittee and Chairman SWIFT. Section 5 and 6 contain technical and clarifying amendments. These sections are basically the same as in the bill that passed the Senate unanimously in October. Sections 7 and 8, which set up a financial assistance section replacing the USTTA's old grant program authority, are the product of long negotiations. The House, the industry, and the agency all had strong feelings about what this new program should look like. I think we have come up with a good compromise.

USTTA is given 6 months after the date of enactment to do notice and comment and published final rules on the financial assistance program. On October 1, 1993, USTTA will publish a notice soliciting comments on which markets have the greatest potential for increasing travel and tourism revenues. On January 1, 1994, USTTA will select the appropriate markets and request proposals from cooperative tourism marketing programs to implement trade promotion programs in the selected market or markets. USTTA would then have 9 months to select recipients and provide financial assistance. On October 1, 1994, the recipients could then begin their trade promotion efforts in the selected markets.

One half of the financial assistance to each recipient will be pooled among all recipients for that market. That money will be used for a generic marketing campaign encouraging people to visit the United States. That generic campaign is to be coordinated by USTTA. The other half of the financial assistance is to be used by the recipient to promote his or her specific destination in the selected market.

Cooperative tourism marketing programs are defined in section 8 of the amendment as well as the criteria for selection of recipients. The financial assistance program is authorized at 25 percent of USTTA's appropriation for fiscal years 1994, 1995, and 1996. Each recipient of financial assistance must provide actual dollar expenditures on the promotion effort equaling 25 percent of the total amount of financial assistance they receive. In-kind expenditures cannot be counted toward the 25-percent requirement. Recipients must spend the 25-percent match on promotional efforts in that selected market.

Section 9 requires USTTA to annually identify barriers to U.S. travel and tourism exports. Section 10 requires the Secretary of Commerce to ensure that foreign tourists are not unnecessarily delayed when entering the United States and to ensure that the 45-minute processing standard for the Federal inspection services at points of entry set by the International Civil Aviation Organization is met. Section 11 requires two annual reports—one beginning October 1, 1994, on USTTA's goals for the year and one beginning on December 31, 1995, on how those goals have been achieved as well as an evaluation of the effectiveness of the financial assistance program. Section 12 establishes a new, career position at the agency, Deputy Under Secretary for Tourism Trade Development. We did this to provide the agency with continuity—a head of operations that would not change with changes in the administration.

Section 13 requires USTTA to continue to seek the assistance of the United States and Foreign Commercial Service. Section 14 limits the agencies expenditures on four budgetary items to 50 percent of its appropriation after a 2-year phase-in. These items will total about $6 million in fiscal year 1993. Section 15 expands the membership of the Tourism Policy Council, adding the Secretary of Agriculture, the chair of the TVA, the commanding general of the Army Corps of Engineers, the Small Business Administrator, the CEO of Amtrak, and the INS and customs commissioners, to the council.

Section 16 makes some membership changes in USTTA's advisory board. It also limits all advisory board members to terms of service of 6 consecutive years or 9 years in total. Section 17 authorizes $21,000,000 in fiscal year 1993, $22,500,000 in fiscal year 1994, $24,000,000 in fiscal year 1995 and $26,000,000 in fiscal year 1996.

Section 18 requires a report by USTTA within 18 months of the date of enactment on:

First, moving to monthly statistics;

Second, statistics concerning inbound and outbound travel trade between the United States and the former Communist bloc countries;

Third, the activities of the Federal Government to increase travel by disabled persons; and

Fourth, efforts undertaken to improve visitor facilitation.

In lieu of reorganizing USTTA's foreign offices, the amendment requires

USTTA to do a comprehensive report on the foreign offices within a year and submit that report to the Senate and House Commerce Committees. USTTA is not allowed to hire additional foreign personnel or execute new leases until the committees have had 6 months to review the report. However, during this period, USTTA may replace only departing employees, preferably with contract personnel, and may renew expiring leases for up to 2 years. This review will enable the agency and the Congress to take a careful look at the structure and the role of USTTA's foreign offices.

As I have said, I think this is a good, solid compromise. It reforms USTTA, it enhances USTTA, it responds to concerns of USTTA's critics and I urge its adoption.

In closing, I want to thank the staff who were instrumental in making this happen. I am especially grateful to Loretta Dunn, of the Commerce Committee, who led the effort to reach a compromise with the House. I am also very appreciative of the efforts by Ivan Schlager and Gerri Hall of the Senate Commerce Committee, Pat Joyce of Senator BURNS' staff and, of course, the efforts of Kiena Smith of my staff. In addition to the Senate staff, I also want to thank staff from the House of Representatives, David Titsworth, Jim Cumberland, and Glenn Scammel.

Mr. HOLLINGS. Mr. President, I urge the Senate to adopt this amendment in the nature of a substitute to S. 680, the Tourism Policy and Export Promotion Act of 1992. I have been privileged to serve as chairman of USTTA's authorizing committee, the Appropriations Subcommittee for USTTA, and Chair of the Senate Tourism Caucus. We have tried for the last 12 years to authorize this agency. The lack of an authorization has been a problem for the Appropriations Subcommittee in dealing with the House. In fact, for a number of years, the House Appropriations Subcommittee refused to appropriate money for USTTA because it was unauthorized. This problem will be resolved by passing this bill today and sending it to the House.

I thank Chairman DINGELL for his cooperation. Even though he had serious criticisms about this agency, he agreed to work with the Senate on a bill to reform USTTA. The substitute amendment we are considering today is largely the result of his efforts and the efforts of Senator ROCKEFELLER, who has tirelessly pushed for a tourism bill. I also note the work of Congressman SWIFT, and Senators BURNS and DANFORTH. I thank them all for their efforts.

The substitute amendment has three major provisions:

First, a new financial assistance program. This program is modeled after the Disaster Relief Program I put in place in the last 2 fiscal years.

We have made some modifications to reflect our experience with that program. For example, matching funds will be required to be in actual dollar expenditures on the marketing program, not in staff salaries or rent or equipment. This is a modest grant program of 25 percent over 2 fiscal years. The generic advertising component of this program, 50 percent of the financial assistance, will be coordinated by USTTA. We know this will work because USTTA employed this approach for its generic campaign in Japan.

Second, reorganization of the foreign offices. The House had been very interested in a reorganization of the foreign offices. USTTA pointed out the difficulties involved with an immediate reorganization, and we have agreed to allow the agency to do a detailed review of its foreign offices and make recommendations to the commerce committees on reorganization.

Third, overhead limit. We have agreed to define overhead as four discrete items in the agency's budget. These four items are limited to 50 percent of the agency's appropriations. In fiscal year 1993, these four items total about $6 million—less than 40 percent of the amount appropriated for USTTA in the Senate's appropriations bill for fiscal year 1993.

There are a number of other good provisions in the bill that I will not go into here today. I urge my colleagues to move our tourism policy into the 1990's by passing this substitute amendment.

Mr. BURNS. Mr. President, it is with great pleasure that I can say that we are looking forward to unanimously passing S. 680, the Tourism Policy and Export Promotion Act of 1992.

I would like to thank my colleague, Mr. ROCKEFELLER, for putting forth the energy and cooperation to create this long-awaited and much needed policy legislation.

It has been my pleasure to be a part of this effort. As part of the rural tourism awareness movement I have watched groups in the private business sector as well as those of us inside the beltway become more and more aware of not only the strength of tourism in this economy, but of the value and importance of making real America available to our friends and neighbors both at home and abroad.

Many are finding a need to diversify their incomes in rural areas today. And tourism is one business opportunity that communities are looking into developing. Not every community has the natural resources to develop, but those that do are finding that the future looks bright.

This is an opportunity that requires community, State and regional cooperation. One lone business out there cannot attract visitors on a profitable basis. But a region can pool its technical, financial and marketing resources to create an image that will attract travelers and tourists. That translates into profitable commerce, but only with well thought out, well defined planning.

This bill contains a valuable provision that would establish a Foundation for the Development of Rural Tourism promotion and cooperative education about the lesser known sites and attractions in this country.

This Foundation would provide private money to tourism regions, States, and private businesses that have coordinated viable cooperative marketing plans with any of our Federal land managing agencies. The purpose of these proposals will be to reach new visitors and maintain existing foreign markets as well as to expand existing tourism marketing programs in rural areas of the United States. It is also for the purpose of developing economic opportunities in rural, less developed areas.

One of our National Park Service's most urgent problems is that of overcrowding in a few of our crown jewels. It appears that this is an opportunity in the guise of a serious problem. Use of lesser utilized attractions and services in surrounding areas would not only lessen the burden of these overcrowded sites, but would increase economic impact in some of the surrounding communities.

Focused marketing programs with attention to diverting visitors to more sites for a shorter length of time would lessen the use and impact in the Yellowstones and Yosemite's of this country, and would increase revenue in smaller rural communities, creating more jobs and a demand for goods and services.

Currently, the Federal land agencies of the Interior Department are moving ahead with cooperative planning and integration of infrastructure development with State and county governments for the purpose of improving visitor facilities and the access to such facilities.

These agencies and the rural areas they are working with need the support of marketing and public relations that this Foundation will provide.

It has been a pleasure to work on this piece of legislation with my colleagues, Senators HOLLINGS, DANFORTH, and ROCKEFELLER. I would also like to commend our staffs for all of their tireless work.

AMENDMENT NO. 2948

(Purpose: To make an amendment in the nature of a substitute)

Mr. MITCHELL. I move that the Senate concur in the amendments of the House with a further amendment which I now send to the desk on behalf of Senators ROCKEFELLER, HOLLINGS, BURNS, and DANFORTH.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Maine [Mr. MITCHELL] on behalf of Mr. ROCKEFELLER, for himself, Mr. HOLLINGS, Mr. BURNS, and Mr. DANFORTH, proposes an amendment numbered 2948.

Mr. MITCHELL. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

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

(The text of the amendment appears in today's RECORD under "amendments submitted.")

The PRESIDING OFFICER. The question is on agreeing to the motion.

The motion was agreed to.

Mr. MITCHELL. Mr. President, I move to reconsider the vote by which the motion was agreed to.

Mr. DOLE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

CONSENT TO INTERSTATE COMPACT RELATIVE TO THE DELAWARE RIVER PORT AUTHORITY

Mr. MITCHELL. Mr. President, I ask unanimous consent the Senate proceed to the immediate consideration of S. 2964, a bill granting the consent of Congress to a supplemental compact or agreement between the Commonwealth of Pennsylvania and the State of New Jersey concerning the Delaware River Port Authority, that the bill be read for the third time, passed, and the motion to reconsider be laid upon the table.

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

The bill (S. 2964) was considered, ordered to be engrossed for a third reading, read the third time, and passed; as follows:

S. 2964

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Congress consents to a supplemental compact or agreement between The Commonwealth of Pennsylvania and the State of New Jersey amending articles I, II, III, IV, XII, and XIII of the compact or agreement between the Commonwealth of Pennsylvania and the State of New Jersey entitled "Agreement Between The Commonwealth of Pennsylvania and The State of New Jersey creating the Delaware River Joint Commission as a body corporate and politic and defining its powers and duties". The supplemental compact or agreement is substantially as follows:

(1) Article I of the "Agreement Between The Commonwealth of Pennsylvania and The State of New Jersey creating the Delaware River Joint Commission as a body corporate and politic and defining its powers and duties", as amended and supplemented, is amended to read as follows:

"The body corporate and politic, heretofore created and known as the Delaware River Joint Commission hereby is continued under the name of the Delaware River Port Authority (hereinafter in this agreement called the 'commission'), which shall constitute the public corporate instrumentality of the Commonwealth of Pennsylvania and the State of New Jersey for the following public purposes, and which shall be deemed to be exercising an essential governmental function in effectuating such purposes, to wit:

"(a) The operation and maintenance of the bridge, owned jointly by the 2 States, across the Delaware River between the city of Philadelphia in the Commonwealth of Pennsylvania and the city of Camden in the State of New Jersey, including its approaches, and the making of additions and improvements thereto.

"(b) The effectuation, establishment, construction, acquisition, operation, and maintenance of railroad or other facilities for the transportation of passengers across any bridge or tunnel owned or controlled by the commission, including extensions of such railroad or other facilities necessary for efficient operation in the Port District.

"(c) The improvement and development of the Port District for port purposes by or through the acquisition, construction, maintenance, or operation of any and all projects for the improvement and development of the Port District for port purposes, or directly related thereto, either directly by purchase, lease, or contract, or by lease or agreement with any other public or private body or corporation or in any other manner.

"(d) Co-operation with all other bodies interested or concerned with, or affected by the promotion, development or use of the Delaware River and the Port District.

"(e) The procurement from the Government of the United States of any consents which may be requisite to enable any project within its powers to be carried forward.

"(f) The construction, acquisition, operation and maintenance of other bridges and tunnels across or under the Delaware River, between the city of Philadelphia or the county of Delaware in the Commonwealth of Pennsylvania and the State of New Jersey, including approaches and the making of additions and improvements thereto.

"(g) The promotion as a highway of commerce of the Delaware River, and the promotion of increased passenger and freight commerce on the Delaware River and for such purpose the publication of literature and the adoption of any other means as may be deemed appropriate.

"(h) To study and make recommendations to the proper authorities for the improvement of terminal, lighterage, wharfage, warehouse and other facilities necessary for the promotion of commerce on the Delaware River.

"(i) Institution through its counsel, or such other counsel as it shall designate, or intervention in, any litigation involving rates, preferences, rebates, or other matters vital to the interest of the Port District; provided, that notice of any such institution of or intervention in litigation shall be given promptly to the Attorney General of the Commonwealth of Pennsylvania and to the Attorney General of the State of New Jersey, and provision for such notices shall be made in a resolution authorizing any such intervention or litigation and shall be incorporated in the minutes of the commission.

"(j) The establishment, maintenance, rehabilitation, construction and operation of a rapid transit system for the transportation of passengers, express mail, and baggage, or any of them, between points in New Jersey within the Port District and points in Pennsylvania within the Port District, and intermediate points. Such system may be established either by utilizing existing rapid transit systems, railroad facilities, highways, and bridges within the territory involved or by the construction or provision of new rail facilities where deemed necessary, and may be established either directly by purchase, lease, or contract, or by lease or agreement with any other public or private body or corporation, or in any other manner.

"(k) The performance of such other functions which may be of mutual benefit to the Commonwealth of Pennsylvania and the State of New Jersey insofar as concerns the promotion and development of the Port District for port purposes and the use of its facilities by commercial vessels.

"(l) The performance or effectuation of such additional bridge, tunnel, railroad, rapid transit, transportation, transportation facility, terminal, terminal facility, and port improvement and development purposes within the Port District as may hereafter be delegated to or imposed upon it by the action of either State concurred in by legislation of the other.

"(m) The unification of the ports of the Delaware River through (i) the acquisition or taking control of any terminal, terminal facility, transportation facility or marine terminal or port facility or associated property within the Port District through purchase, lease, or otherwise, or by the acquisition, merger, becoming the successor to or entering into contracts, agreements, or partnerships with any other port corporation, port authority, or port related entity which is located within the Port District, all in accordance with the applicable laws of the State in which the facility, corporation, or authority is located; (ii) the exercise of the other powers granted by this compact; or (iii) the establishment (whether solely or jointly with any other entity or entities) of such subsidiary corporation or corporations or maritime or port advisory committees as may be necessary or desirable to effectuate this purpose.

"(n) The planning, financing, development, acquisition, construction, purchase, lease, maintenance, marketing, improvement and operation of any project, including but not limited to any terminal, terminal facility, transportation facility, or any other facility of commerce or economic development activity; from funds available after appropriate allocation for maintenance of bridge and other capital facilities.".

(2) Article II of the agreement is amended to read as follows:

"The commission shall consist of sixteen commissioners, eight resident voters of the Commonwealth of Pennsylvania and eight resident voters of the State of New Jersey, who shall serve without compensation.

"The commissioners for the State of New Jersey shall be appointed by the Governor of New Jersey with the advice and consent of the Senate of New Jersey, for terms of five years, and in case of a vacancy occurring in the office of commissioner during a recess of the Legislature, it may be filled by the Governor by an ad interim appointment which shall expire at the end of the next regular session of the Senate unless a successor shall be sooner appointed and qualify and, after the end of the session, no ad interim appointment to the same vacancy shall be made unless the Governor shall have submitted to the Senate a nomination to the office during the session and the Senate shall have adjourned without confirming or rejecting it, and no person nominated for any such vacancy shall be eligible for an ad interim appointment to such office if the nomination shall have failed of confirmation by the Senate.

"Six of the eight commissioners for the Commonwealth of Pennsylvania shall be ap-

pointed by the Governor of Pennsylvania for terms of five years. The Auditor General and the State Treasurer of said Commonwealth shall be ex officio commissioners for said Commonwealth, each having the privilege of appointing a representative to serve in his place at a meeting of the commission which he does not attend personally. Any commissioner who is an elected public official shall have the privilege of appointing a representative to serve and act in his place at any meeting of the commission which he does not attend personally.

"All commissioners shall continue to hold office after the expiration of the terms for which they are appointed or elected until their respective successors are appointed and qualify, but a period during which any commissioner shall hold over shall be deemed to be an extension of his term of office for the purpose of computing the date on which his successor's term expires.".

(3) Article III of the agreement is amended to read as follows:

"The commissioners shall have charge of the commission's property and affairs and shall for the purpose of doing business constitute a board, but no action of the commissioners shall be binding unless a majority of the members of the commission from Pennsylvania and a majority of the members of the commission from New Jersey shall vote in favor thereof.

"Notwithstanding the above, each State reserves the right to provide by law for the exercise of a veto power by the Governor of that State over any action of any commissioner from that State at any time within 10 days (Saturdays, Sundays, and public holidays in the particular State excepted) after receipt at the Governor's office of a certified copy of the minutes of the meeting at which such vote was taken. Each State may provide by law for the manner of delivery of such minutes, and for notification of the action thereon.".

(4) Article IV of the agreement is amended to read as follows:

"For the effectuation of its authorized purposes the commission is hereby granted the following powers:

"(a) To have perpetual succession.

"(b) To sue and be sued.

"(c) To adopt and use an official seal.

"(d) To elect a chairman, vice-chairman, secretary, and treasurer, and to adopt suitable bylaws for the management of its affairs. The secretary and treasurer need not be members of the commission.

"(e) To appoint, hire, or employ counsel and such other officers and such agents and employees as it may require for the performance of its duties, by contract or otherwise, and fix and determine their qualifications, duties, and compensation.

"(f) To enter into contracts.

"(g) To acquire, own, hire, use, operate, and dispose of personal property.

"(h) To acquire, own, use, lease, operate, mortgage, and dispose of real property and interests in real property, and to make improvements thereon.

"(i) To grant by franchise, lease, or otherwise, the use of any property or facility owned or controlled by the commission and to make charges therefor.

"(j) To borrow money upon its bonds or other obligations, either with or without security, and to make, enter into, and perform any and all such covenants and agreements with the holders of such bonds or other obligations as the commission may determine to be necessary or desirable for the security and payment thereof, including without limitation of the foregoing, covenants and agreements as to the management and operation of any property or facility owned or controlled by it, the tolls, rents, rates, or other charges to be established, levied, made, and collected for any use of any such property or facility, or the application, use, and disposition of the proceeds of any bonds or other obligations of the commission or the proceeds of any such tolls, rents, rates, or other charges or any other revenues or moneys of the commission.

"(k) To exercise the right of eminent domain within the Port District.

"(l) To determine the exact location, system, and character of and all other matters in connection with any and all improvements or facilities which it may be authorized to own, construct, establish, effectuate, operate, or control.

"(m) In addition to the foregoing, to exercise the powers, duties, authority, and jurisdiction heretofore conferred and imposed upon the aforesaid the Delaware River Joint Commission by the Commonwealth of Pennsylvania or the State of New Jersey, or both of the said 2 States.

"(n) To exercise all other powers not inconsistent with the constitutions of the 2 States or of the United States, which may be reasonably necessary or incidental to the effectuation of its authorized purposes or to the exercise of any of the foregoing powers, except the power to levy taxes or assessments, and generally to exercise in connection with its property and affairs, and in connection with property within its control, any and all powers which might be exercised by a natural person or a private corporation in connection with similar property and affairs.

"(o) To acquire, purchase, construct, lease, operate, maintain, and undertake any project, including any terminal, terminal facility, transportation facility, or any other facility of commerce and to make charges for the use thereof.

"(p) To make expenditures anywhere in the United States and foreign countries, to pay commissions, and hire or contract with experts or consultants, and otherwise to do indirectly anything which the commission may do directly.

"(q) To establish 1 or more operating divisions as deemed necessary to exercise the power and effectuate the purposes of this agreement.

"The commission shall also have such additional powers as may hereafter be delegated to or imposed upon it from time to time by the action of either State concurred in by legislation of the other.

"It is the policy and intent of the Legislature of the Commonwealth of Pennsylvania and the State of New Jersey that the powers granted by this article shall be so exercised that the American system of free competitive private enterprise is given full consideration and is maintained and furthered. In making its reports and recommendations to the Legislatures of the Commonwealth of Pennsylvania and the State of New Jersey on the need for any facility or project which the commission believes should be undertaken for the promotion and development of the Port District, the commission shall include therein its findings which fully set forth that the facility or facilities operated by private enterprise within the Port District and which it is intended shall be supplanted or added to are not adequate.".

(5) Article XII of the agreement is amended to read as follows:

"The Commission shall, within 90 days after the end of each fiscal year, submit to the Governors and Legislatures of the Commonwealth of Pennsylvania and the State of New Jersey a complete and detailed report of the following:

"(1) its operations and accomplishments during the completed fiscal year;

"(2) its receipts and disbursements or revenues and expenses during that year in accordance with the categories and classifications established by the commission for its own operating and capital outlay purposes;

"(3) its assets and liabilities at the end of the fiscal year, including the status of reserve, depreciation, special or other funds including debits and credits of these funds;

"(4) a schedule of bonds and notes outstanding at the end of the fiscal year;

"(5) a list of all contracts exceeding $100,000 entered into during the fiscal year;

"(6) a business or strategic plan for the commission and for each of its operating divisions; and

"(7) a five year capital plan.

"Not less than once every five years, the commission shall cause a management audit of its operational effectiveness and efficiency to be conducted by an independent consulting firm selected by the commission. The first management audit to be conducted shall commence within 3 years of the date of coming into force of the supplemental compact or agreement authorized by this 1991 amendatory act. This audit is in addition to any other audit which the commission determines to conduct from time to time.

"The commission shall, not later than 2 years after the date of the coming into force of the supplemental compact or agreement authorized by this 1991 amendatory act, prepare a comprehensive master plan for the development of the Port District. The plan shall include, but not be limited to, plans for the construction, financing, development, reconstruction, purchase, lease, improvement, and operation of any terminal, terminal facility, transportation facility or any other facility of commerce or economic development activity. The master plan shall include the general location of such projects and facilities as may be included in the master plan and shall to the maximum extent practicable include, but not be limited to, a general description of each such project and facility, the land use requirements necessary therefor, and estimates of project costs and of a schedule for commencement of each such project. Prior to adopting such master plan, the commission shall give written notice to, afford a reasonable opportunity for comment, consult with and consider any recommendations from States, county and municipal government, as well as commissions, public corporations and authorities, and the private sector. The commission may modify or change any part of the plan in the same form and manner as provided for the adoption of the original plan. At the time the commission authorizes any project or facility, the commission shall promptly provide to the Governor and Legislature of each State a detailed report on the project including its status within the master plan. The commission shall include within the authorization a status of the project or facility in the master plan and any amendment thereof, and no project shall be authorized if not included in the master plan or amendment thereof. Any project which has been commenced and approved by the commission prior to the adoption of the master plan shall be included, for informational purposes only, in the master plan. The commission shall provide notice of such on-going projects to those States, county and municipal gov-

ernments, as well as entities in the private sector who would be entitled to such notice had the project not been commenced in anticipation of adopting the master plan, but there shall be no requirement that the project be delayed or deferred due to these provisions.

"In addition to other powers conferred upon it, and not in limitation thereof, the commission may acquire all right, title and interest in and to the Tacony-Palmyra bridge, across the Delaware River at Palmyra, New Jersey, together with any approaches and interests in real property necessary thereto. The acquisition of such bridge, approaches and interests by the commission shall be by purchase or by condemnation in accordance with the provisions of the Federal law consenting to or authorizing the construction of such bridge or approaches, or the acquisition of such bridge, approaches or interests by the commission shall be pursuant to and in accordance with the provisions of section 48:5–22 and 48:5–23 of the Revised Statutes of New Jersey, and for all the purposes of said provisions and sections the commission is hereby appointed as the agency of the State of New Jersey and the Commonwealth of Pennsylvania exercising the rights and powers granted or reserved by said Federal law or sections to the State of New Jersey and Commonwealth of Pennsylvania jointly or to the State of New Jersey acting in conjunction with the Commonwealth of Pennsylvania. The commission shall have authority to so acquire such bridge, approaches and interests, whether the same be owned, held, operated or maintained by any private person, firm, partnership, company, association or corporation or by any instrumentality, public body, commission, public agency or political subdivision (including any county or municipality) of, or created by or in, the State of New Jersey or the Commonwealth of Pennsylvania, or by any instrumentality, public body, commission, or public agency of, or created by or in, a political subdivision (including any county or municipality) of the State of New Jersey or the Commonwealth of Pennsylvania. None of the provisions of the preceding paragraph shall be applicable with respect to the acquisition by the commission, pursuant to this paragraph, of said Tacony-Palmyra bridge, approaches and interests. The power and authority herein granted to the commission to acquire said Tacony-Palmyra bridge, approaches and interests shall not be exercised unless and until the Governor of the State of New Jersey and the Governor of the Commonwealth of Pennsylvania have filed with the commission their written consents to such acquisition.

"Notwithstanding any provision of this agreement, nothing herein contained shall be construed to limit or impair any right or power granted or to be granted to the Pennsylvania Turnpike Commission or the New Jersey Turnpike Authority, to finance, construct, operate, and maintain the Pennsylvania Turnpike System or any turnpike project of the New Jersey Turnpike Authority, respectively, throughout the Port District, including the right and power, acting alone or in conjunction with each other, to provide for the financing, construction, operation, and maintenance of one bridge across the Delaware River south of the city of Trenton in the State of New Jersey; provided that such bridge shall not be constructed within a distance of 10 miles, measured along the boundary line between the Commonwealth of Pennsylvania and the State of New Jersey, from the existing bridge, operated and maintained by the commission, across the Delaware River between the city of Philadelphia in the Commonwealth of Pennsylvania and the city of Camden in the State of New Jersey, so long as there are any outstanding bonds or other securities or obligations of the commission for which the tolls, rents, rates, or other revenues, or any part thereof, of said existing bridge shall have been pledged. Nothing contained in this agreement shall be construed to authorize the commission to condemn any such bridge.

"Anything herein contained to the contrary notwithstanding, no bridge or tunnel shall be constructed, acquired, operated, or maintained by the commission across or under the Delaware River north of the boundary line between Bucks County and Philadelphia county in the Commonwealth of Pennsylvania as extended across the Delaware River to the New Jersey shore of said river, and any new bridge or tunnel authorized by or pursuant to this compact or agreement to be constructed or erected by the commission may be constructed or erected at any location south of said boundary line notwithstanding the terms and provisions of any other agreement between the Commonwealth of Pennsylvania and the State of New Jersey. Except as may hereafter be otherwise provided in conformity with Article IX hereof with respect to specific properties designated by action of the Legislatures of both of the signatory States, no property or facility owned or controlled by the commission shall be acquired from it by any exercise of powers of condemnation or eminent domain.".

(6) Article XIII of the agreement is amended to read as follows:

"As used herein, unless a different meaning clearly appears from the context:

"'Port District' shall mean all the territory within the counties of Bucks, Chester, Delaware, Montgomery, and Philadelphia in Pennsylvania, and all the territory within the counties of Atlantic, Burlington, Camden, Cape May, Cumberland, Gloucester, Ocean, and Salem in New Jersey.

"'Commission' shall mean the Delaware River Port Authority and, when required by the context, the board constituting the governing body thereof in charge of its property and affairs.

"'Commissioner' shall mean a member of the governing body of the Delaware River Port Authority.

"'Economic development activity' or 'economic development' means any structure or facility or any development within the Port District in connection with manufacturing, port-oriented development, foreign trade zone site development or research, commercial, industrial, or recreational purposes, or for purposes of warehousing or consumer and supporting services directly relating to any of the foregoing or to any authority project or facility which are required for the sound economic development of the Port District.

"'Terminal' shall include any marine, motor truck, motorbus, railroad, and air terminal or garage, also any coal, grain, and lumber terminal and any union freight and other terminals used or to be used in connection with the transportation of passengers and freight, and equipment, materials, and supplies therefor.

"'Transportation facility' and 'facilities for transportation of passengers' shall include railroads operated by steam, electricity, or other power, rapid transit lines, motor trucks, motorbuses, tunnels, bridges, airports, boats, ferries, carfloats, lighters, tugs, floating elevators, barges, scows, or harbor craft of any kind, and aircraft, and equipment, materials, and supplies therefor.

"'Terminal facility' shall include wharves, piers, slips, berths, ferries, docks, drydocks, ship repair yards, bulkheads, dock walls, basins, carfloats, floatbridges, dredging equipment, radio receiving and sending stations, grain or other storage elevators, warehouses, cold storage, tracks, yards, sheds, switches, connections, overhead appliances, bunker coal, oil, and fresh water stations, markets, and every kind of terminal, storage, or supply facility now in use, or hereafter designed for use to facilitate passenger transportation and for the handling, storage, loading, or unloading of freight at terminals, and equipment, materials, and supplies therefor.

"'Transportation of passengers' and 'passenger transportation' shall mean the transportation of passengers by railroad or other facilities.

"'Rapid transit system' shall mean a transit system for the transportation of passengers, express mail, and baggage by railroad or other facilities, and equipment, materials, and supplies therefor.

"'Project' shall mean any improvement, betterment, facility or structure authorized by or pursuant to this compact or agreement to be constructed, erected, acquired, owned, or controlled or otherwise undertaken by the commission. 'Project' shall not include undertakings for purposes described in Article I, subdivisions (d), (e), (g), (h), and (i).

"'Railroad' shall include railways, extensions thereof, tunnels, subways, bridges, elevated structures, tracks, poles, wires, conduits, powerhouses, substations, lines for the transmission of power, carbarns, shops, yards, sidings, turnouts, switches, stations, and approaches thereto, cars, and motive equipment.

"'Bridge' and 'tunnel' shall include such approach highways and interests in real property necessary therefor in the Commonwealth of Pennsylvania or the State of New Jersey as may be determined by the commission to be necessary to facilitate the flow of traffic in the vicinity of a bridge or tunnel or to connect a bridge or tunnel with the highway system or other traffic facilities in said Commonwealth or said State; provided, however, that the power and authority herein granted to the commission to construct new or additional approach highways shall not be exercised unless and until the Department of Transportation of the Commonwealth of Pennsylvania shall have filed with the commission its written approval as to approach highways to be located in said Commonwealth and the State Highway Department of the State of New Jersey shall have filed with the commission its written approval as to approach highways to be located in said State.

"'Facility' shall include all works, buildings, structures, property, appliances, and equipment, together with appurtenances necessary and convenient for the proper construction, equipment, maintenance, and operation of a facility or facilities or any 1 or more of them.

"'Personal property' shall include choses in action and all other property now commonly, or legally, defined as personal property, or which may hereafter be so defined.

"'Lease" shall include rent or hire.

"'Municipality' shall include a county, city, borough, village, township, town, public agency, public authority, or political subdivision.

"Words importing the singular number include the plural number and vice versa.

"Wherever legislation or action by the Legislature of either signatory State is here-

in referred to it shall mean an act of the Legislature duly adopted in accordance with the provisions of the Constitution of such State.".

Mr. SPECTER. Mr. President, I urge my colleagues' support of this legislation to grant consent to a compact between Pennsylvania and New Jersey for the enhancement of the Delaware River Port Authority, in accordance with legislation passed by the Commonwealth of Pennsylvania and the State of New Jersey. The bill which I introduced earlier this year along with Senator BRADLEY, Senator WOFFORD, and Senator LAUTENBERG proposes changes in the Delaware River Authority compact that will enhance the role of the Delaware River Port Authority. This compact is an important step toward further development of the port as a vital resource to the Delaware River Valley.

Primarily, the compact extends and unifies the Delaware River Port Authority's operation in the Delaware River Valley by giving it new authority to run port operations in a unified manner between Pennsylvania and New Jersey. This cooperation created through the compact will enable the two States to join forces and resources to enhance one of the greatest economic development assets in the region. This unified promotion of shipping operations on both sides of the river will potentially stimulate the local economies and create new jobs.

Further, the bill clarifies and expands the port authority's powers. These new powers include the right to acquire, purchase, or lease port-related property within the port district, to acquire, merge with or become successor to other port entities, to engage in economic development activities, and to plan, finance, and own commerce facilities located within the port district. These powers are all subject to the supervision of the Commission through substantial reporting, planning, and public consulting obligations placed on the port authority.

These actions to enlarge the port's geographical area and the expansion of the port authority's powers will surely lead to greater economic development for the port, the Commonwealth of Pennsylvania, and the State of New Jersey.

Mr. President, the Philadelphia Port is a major economic resource in the Delaware River Valley. The port is located in the center of the eastern industrial corridor of the United States, one of the largest and most productive markets in the world. According to a review by the Philadelphia Regional Port System, more than 13 percent of the total buying income of the country is within 100 miles of the port complex, which is served by a highly efficient rail and highway network that brings some of America's greatest centers of commerce within easy reach.

As testament to the value and importance of this compact to the Delaware Valley, the Commonwealth of Pennsylvania and the State of New Jersey have passed equivalent legislation regarding the Delaware River Port Authority compact. The New Jersey State Legislature has approved the compact, with Governor Florio signing it on January 19, 1992. The Pennsylvania State Legislature also has approved the compact with overwhelming support and Governor Casey signed the compact on April 3, 1992.

Finally, Mr. President, it needs to be noted that this legislation does not call for an increase in the tolls paid on the bridges operated by the Delaware River Port Authority between Pennsylvania and New Jersey. The bill retains the existing just and reasonable requirement in toll operations.

Mr. President, I would like to reaffirm that this measure enjoys broad support as it will greatly enhance the activities of the port authority and the ongoing economic recovery of the region. This measure of unification and development of the port is clearly a regional priority to the region. Congressman BILL HUGHES has introduced a companion bill to this legislation in the House of Representatives. I understand that it has received favorable consideration by the House Judiciary Committee.

I appreciate the prompt consideration the Senate Judiciary Committee has given this bill and urge its adoption by the Senate.

APPOINTMENT OF CONFEREES—H.R. 5739

Mr. MITCHELL. Mr. President, I inquire whether it is now in order to appoint the conferees on the export-import bank legislation.

The PRESIDING OFFICER. To the Chair's knowledge, that request would be in order.

Mr. MITCHELL. I so move.

The motion was agreed to; and the Presiding Officer appointed Mr. RIEGLE, Mr. CRANSTON, Mr. SARBANES, Mr. GARN, and Mr. MACK conferees on the part of the Senate.

EXECUTIVE SESSION

EXECUTIVE CALENDAR

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Senate proceed to executive session to consider the following nominations:

Calendar 764. Jose Antonio Villamil, to be Under Secretary of Commerce for Economic Affairs;

Calendar 765. Mary Jo Jacobi, to be an Assistant Secretary of Commerce;

Calendar 766. Maj. Gen. Robert A. Tiebout, to be lieutenant general;

Calendar 767. Gen. John R. Dailey, to be general;

Calendar 768. Lt. Gen. Walter E. Boomer, to be general;

Calendar 769. Maj. Gen. Charles C. Krulak, to be lieutenant general;

Calendar 770. Joseph J. DiNunno, to be a member of the Defense Nuclear Facilities Safety Board;

Calendar 771. Col. Eugene A. Lupia, to be brigadier general;

Calendar 772. Col. Thomas J. Lennon, to be brigadier general;

Calendar 773. Officers for appointment in the Reserve of the Air Force to the grade indicated;

Calendar 774. Officers for appointment in the Reserve of the Air Force to the grade indicated;

Calendar 776. Lt. Gen. Paul G. Cerjan, to be lieutenant general;

Calendar 777. Maj. Gen. Daniel R. Schroeder, to be lieutenant general;

Calendar 778. Maj. Gen. Alcide M. LaNoue, to be Surgeon General and lieutenant general;

Calendar 779. Maj. Gen. Authur E. Williams, to be Chief of Engineers and lieutenant general;

Calendar 780. Maj. Gen. William H. Forster, to be lieutenant general;

Calendar 781. Lt. Gen. Peter A. Kind to be lieutenant general; and

Calendar 782. Maj. Gen. Leo J. Pigaty, to be lieutenant general.

All nominations reported today by the Armed Services Committee in the Navy, Army, and Air Force, and

All nominations placed on the Secretary's Desk in the Navy, Marine Corps, and Army Air Force.

The following nominations reported today by the Foreign Relations Committee:

Mack F. Mattingly, to be Ambassador to the Republic of Seychelles;

Ruth A. Davis, to be Ambassador to the Republic of Benin;

Harriet W. Isom, to be Ambassador to the Republic of Cameroon;

Alan Greenspan, to be alternate governor of the International Monetary Fund;

Patricia Diaz Dennis, to be Assistant Secretary of State for Human Rights and Humanitarian Affairs;

Anthony Cecil Eden Quainton, to be Assistant Secretary of State for Diplomatic Security;

All nominations reported today by the Judiciary Committee:

John F. Daffron, Jr., to be a member of the Board of Directors of the State Justice Institute;

Terrence B. Adamson, to be a member of the Board of Directors of the State Justice Institute;

Edward F. Reilly, to be a Commissioner of the U.S. Parole Commission;

Joseph A. DiClerico, Jr., to be U.S. district judge;

Michael J. Melloy, to be U.S. district judge;

Alvin A. Schall, to be U.S. circuit judge;

Linda H. McLaughlin, to be U.S. district judge;

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Carol E. Jackson, to be U.S. district judge;

John G. Heyburn II, to be U.S. district judge;

Alfred V. Covello, to be U.S. district judge;

Ilana D. Rovner, to be U.S. circuit judge;

Carolyn P. Chiechi, of Maryland, to be a judge of the U.S. Tax Court, and

David Laro, of Michigan, to be a judge of the U.S. Tax Court.

All nominations reported out today by the Committee on Labor and Human Resources:

Glen L. Bower, to be a member of the U.S. Railroad Retirement Board;

Virgil M. Speakman, to be a member of the U.S. Railroad Retirement Board; and

Jerome F. Kever, to be a member of the U.S. Railroad Retirement Board.

I further ask unanimous consent that the Senate proceed to immediate consideration, and 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, and that the President be immediately notified of the Senate's action.

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

The nominations considered and confirmed en bloc are as follows:

THE JUDICIARY

Carolyn P. Chiechi, of Maryland, to be a Judge of the U.S. Tax Court for a term expiring 15 years after she takes office.

David Laro, of Michigan, to be a judge of the U.S. Tax Court for a term expiring 15 years after he takes office.

DEPARTMENT OF COMMERCE

Jose Antonio Villamil, of Florida, to be Under Secretary of Commerce for Economic Affairs.

Mary Jo Jacobi, of Mississippi, to be an Assistant Secretary of Commerce,

IN THE MARINE CORPS

The following-named officer, under the provisions of title 10, United States Code, section 601, for assignment to a position of importance and responsibility as follows:

To be lieutenant general

Maj. Gen. Robert A. Tiebout [redacted] USMC.

The following-named officer to be placed on the retired list under the provisions of title 10, United States Code, section 1370:

To be general

Gen John R. Dailey, [redacted] USMC.

The following-named officer for appointment as Assistant Commandant of the Marine Corps under title 10, United States Code, section 5044.

To be general

Lt. Gen. Walter E. Boomer, [redacted] USMC.

The following named officer, under the provisions of title 10, United States Code, section 601, for assignment to a position of importance and responsibility as follows:

To be lieutenant general

Maj. Gen. Charles C. Krulak [redacted] USMC.

DEFENSE NUCLEAR FACTILITES SAFETY BOARD

Joseph J. DiNunno, of Maryland, to be a Member of the Defense Nuclear Facilities Safety Board for the remainder of the term expiring October 18, 1995

IN THE AIR FORCE

The following officer for appointment in the U.S. Air Force to the grade of brigadier general under the provisions of section 624, title 10 of the United States Code:

To be brigadier general

Col. Eugene A. Lupia, [redacted] Regular Air Force.

The following named officer for appointment in the U.S. Air Force to the grade of brigadier general under the provisions of title 10, United States Code, section 624:

To be brigadier general

Col. Thomas J. Lennon, [redacted] Regular Air Force.

The following officers for appointment in the Reserve of the Air Force to the grade indicated, under the provisions of sections 593, 8218, and 8373, title 10, United States Code:

To be major general

Brig. Gen. Gary L. Eichhorn [redacted] Air Force Reserve.

Brig. Gen. Jacques P. Klein [redacted] Air Force Reserve.

Brig. Gen. Thomas L. Neubert [redacted] Air Force Reserve.

Brig. Gen. James E. Sherrard, III, 426–88–6641, Air Force Reserve.

Brig. Gen. David R. Smith, [redacted] Air Force Reserve.

Brig. Gen. Jerry E. White [redacted] Air Force Reserve.

To be brigadier general

Col. John A. Bradley, [redacted] Air Force Reserve.

Col. Donald W. Bryan, [redacted] Air Force Reserve.

Col. William A. Cohen, [redacted] Air Force Reserve.

Col. James J. Kennedy, III, [redacted] Air Force Reserve.

Col. Michael R. Lee, [redacted] Air Force Reserve.

Col. Robert A. Nester, [redacted] Air Force Reserve.

Col. Reese R. Neilsen, [redacted] Air Force Reserve.

Col. Ralph H. Oates, [redacted] Air Force Reserve.

Col. Herbert P. Riessen, [redacted] Air Force Reserve.

Col. James E. Sehorn, [redacted] Air Force Reserve.

Col. Virgil J. Toney, Jr. [redacted] Air Force Reserve.

Col. Donald K. Woodman, [redacted] Air Force Reserve.

The following officers for appointment in the Reserve of the Air Force to the grade indicated, under the provisions of sections 593, 8218, 8373, and 8374, title 10, United States Code:

To be major general

Maj. Gen. Hugh L. Cox III, USAF (Ret), [redacted] Air National Guard of the United States.

Brig. Gen. Charles M. Bulter [redacted] Air National Guard of the United States.

Brig. Gen. Nelson E. Durgin [redacted] Air National Guard of the United States.

To be brigadier general

Col. Allen W. Boone, [redacted] Air National Guard of the United States.

Col. Bruce G. Bramlette, [redacted] Air National Guard of the United States.

Col. Rendell F. Clark, Jr. [redacted] Air National Guard of the United States.

Col. James R. Hendrickson, [redacted] Air National Guard of the United States.

Col. Jack D. Koch, [redacted] Air National Guard of the United States.

Col. Allen M. Mizumoto, [redacted] Air National Guard of the United States.

Col. Gary P. Morgan, [redacted] Air National Guard of the United States.

Col. C.D. Payne, [redacted] Air National Guard of the United States.

Col. Robert L. Privett, [redacted] Air National Guard of the United States.

Col. Xel Sant'anna, [redacted] Air National Guard of the United States.

Col. Loran C. Schnaidt, [redacted] Air National Guard of the United States.

Col. Fred R. Sloan, [redacted] Air National Guard of the United States.

Col. John H. Smith, [redacted] Air National Guard of the United States.

Col. Albert H. Wilkening, [redacted] Air National Guard of the United States.

Col. Richard B. Yules, [redacted] Air National Guard of the United States.

IN THE ARMY

The following-named officer for reappointment to the grade of lieutenant general while assigned to a position of importance and responsibility under title 10, United States Code, section 601(a):

To be lieutenant general

Lt. Gen. Paul G. Cerjan, [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. Daniel R. Schroeder, [redacted] United States Army.

The following-named officer for appointment as the Surgeon General, United States Army, in the grade indicated, under the provisions of title 10, United States Code, section 3036:

To be surgeon general

To be lieutenant general

Maj. Gen. Alcide M. LaNoue [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), and for appointment as Chief of Engineers under title 10, section 3036:

To be chief of engineers

To be lieutenant general

Maj. Gen. Arthur E. Williams [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. William H. Forster [redacted] United States Army.

The following-named officer for reappointment to the grade of lieutenant general while assigned to a position of importance and responsibility under title 10, United States Code, section 601(a):

To be lieutenant general

Lt. Gen. Peter A. Kind, [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. Leo J. Pigaty xxx-xx-xxxx United States Army.

NOMINATIONS PLACED ON THE SECRETARY'S DESK IN THE AIR FORCE, ARMY

Air Force nomination of Lt. Col. Frances A. Gaffney, which was received by the Senate and appeared in the CONGRESSIONAL RECORD of July 1, 1992.

Air Force nomination of Lt. Col. Charles L. Veach, which was received by the Senate and appeared in the CONGRESSIONAL RECORD of July 1, 1992.

Air Force nominations beginning Craig R Baker, and ending Gregory P Sarakatsannis, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD of July 1, 1992.

Air force nominations beginning Major James D. English, xxx-xx-xxxx and ending Major Barbara J. Nelson xxx-xx-xxxx which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD of August 7, 1992.

Air Force nominations beginning Andrea D Begel, and ending Steven D Williams, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD of August 7, 1992.

Army nominations beginning Frank J Abbott, and ending 204, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD of March 18, 1992.

Army nominations beginning Anders B Aadland, and ending 155x, which nominations ere received by the Senate and appeared in the CONGRESSIONAL RECORD of June 17, 1992.

Army nominations beginning Earl P. Ewing, and ending Roger D. Williams, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD of July 1, 1992.

Army nominations beginning Richard L Agee, and ending Lydia R Zager, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD of July 20, 1992.

Army nominations beginning Samuel J Angulo, and ending John S Young, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD of July 2, 1992.

Army nominations beginning Larr * Adamsthompson, and ending Timothy * Willoughby, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD of July 2, 1992.

Army nominations beginning Phillip L Aday, and ending Joshua M Zimmerman, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD of August 4, 1992.

Army nominations beginning Joel D. Miller, and ending * Thomas P. Winkler, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD of August 7, 1992.

Army nominations beginning Landry K. Appleby, and ending Duane R. Opp, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD of August 7, 1992.

Army nominations beginning Alfred F. Livaudais, and ending * Sherri L. Mitchell, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD of August 7, 1992.

Mack F. Mattingly, of Georgia, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Seychelles.

Ruth A. Davis, of Georgia, a career member of the Senior Foreign Service, class of Minister-Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Benin.

Harriet Winsar Isom, of Oregon, a career member of the Senior Foreign Service, class of Minister-Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Cameroon.

By Mr. BIDEN, from the Committee on the Judiciary:

Alvin A. Schall, of Maryland, to be U.S. circuit judge for the Federal Circuit;

Ilana Diamond Rovner, of Illinois, to be U.S. circuit judge for the Seventh Circuit;

John G. Heyburn, II, of Kentucky, to be U.S. district judge for the Western District of Kentucky;

Linda L. McLaughlin, of California, to be U.S. district judge for the Central District of California;

Alfred V. Covello, of Connecticut, to be U.S. district judge for the District of Connecticut;

Carol E. Jackson, of Missouri, to be U.S. district judge for the Eastern District of Missouri;

Joseph A. DiClerico, Jr., of New Hampshire, to be U.S. district judge for the District of New Hampshire; and

Michael J. Melloy, of Iowa, to be U.S. district judge for the Northern District of Iowa.

By Mr. BIDEN, from the Committee on the Judiciary:

John F. Daffron, Jr., of Virginia, to be a member of the Board of Directors of the State Justice Institute for a term expiring September 17, 1994;

Terrence B. Adamson, of Georgia, to be a member of the Board of Directors of the State Justice Institute for a term expiring September 17, 1994; and

The following-named person to be Commissioner of the U.S. Parole Commission for the terms indicated:

Edward F. Reilly, of Kansas, for the remainder of the term expiring November 1, 1997.

By Mr. KENNEDY, from the Committee on Labor and Human Resources:

Glen L. Bower, of Illinois, to be a member of the Railroad Retirement Board for a term of 5 years from August 29, 1992;

Jerome F. Kever, of Illinois, to be a member of the Railroad Retirement Board for the remainder of the term expiring August 28, 1993; and

Virgil M. Speakman, Jr., of Ohio, to be a member of the Railroad Retirement Board for the remainder of the term expiring August 28, 1994.

By Mr. PELL, from the Committee on Foreign Relations;

Patricia Diaz Dennis, of Virginia, to be Assistant Secretary of State for Human Rights and Humanitarian Affairs;

Alan Greenspan, of New York, to be U.S. Alternative Governor of the International Monetary Fund for a period of 5 years; and

Anthony Cecil Eden Quainton, of the District of Columbia, a career member of the Senior Foreign Service, class of Career Minister, to be Assistant Secretary of State for Diplomatic Security.

STATEMENT ON THE NOMINATION OF JACK D. KOCH

Mr. BYRD. Mr. President, I am delighted that the President has nominated Col. Jack D. Koch for the rank of brigadier general. He is a standout West Virginian and has been tireless in his contributions and dedication to the Air National Guard in West Virginia. Colonel Koch's leadership, experience, and patriotism will be valuable assets in his new position as assistant adjutant general for West Virginia.

Colonel Koch was born in Charleston, WV, and now lives in Martinsburg. He is a graduate of West Virginia University. Colonel Koch has held a number of responsible positions in the West Virginia Air National Guard since he completed training in April 1958, including air commander of the 167th Tactical Airlift Group for 9 years. Prior to that, he held other responsible civilian and military positions in the West Virginia Air National Guard, including chief, command and control; chief, standardization/evaluation; and C–130 liaison officer for exercise Volant Oak, Panama.

Colonel Koch has received many honors, including the Air Force outstanding unit award, combat readiness medal with three devices, the West Virginia service ribbon for over 25 years service, Air Force meritorious service and commendation medals, and the West Virginia distinguished unit award. Colonel Koch has acquired over 11,000 hours of accident-free flying time in 18 different types of aircraft.

Mr. President, it has been my experience that all members of the reserve components of the armed services, and especially those reaching the high rank of brigadier general, must spend considerable time away from their families in the pursuit of their military duties. This requires no small sacrifice on the part of those family members. In this regard, Colonel Koch's wife, Tina, his oldest son Andrew, who is a pilot presently assigned to Andrews Air Force Base, his son Jason, and his daughters, Felicia and Jacklyn, are to be commended.

Mr. President, I am pleased to cast my vote for the confirmation of Col. Jack D. Koch as brigadier general, and I urge my colleagues to support this nomination.

STATEMENT ON THE NOMINATION OF TIM COVELLO

Mr. DODD. Mr. President, I rise in support of the nomination of Alfred V. (Tim) Covello to serve as a judge on the U.S. District Court for the District of Connecticut.

Mr. Covello is a native son of Connecticut. He grew up in the west end of Hartford, attended the Loomis School and then matriculated from Harvard University. Thereafter, he returned to Connecticut and received his law degree from the University of Connecticut Law School.

Mr. Covello has spent his entire career in the State. For the past 18 years, he has worked his way up through the Connecticut judicial system, starting as a judge on the circuit court, and then progressing to judgeships on the Court of Common Pleas, the Superior Court, and the Appellate Session of the Superior Court. Finally, in 1987, Tim

Covello was elevated to the highest court in the State when he was appointed to be a justice of the Connecticut Supreme Court.

He is an outstanding jurist. In 1987 he was cited as the best trial judge in Connecticut. Further, the American Bar Association's standing committee on the Federal judiciary unanimously found him well qualified to serve on the Federal bench. This is the committee's highest rating.

Tim Covello's love for the law has been passed down to his family. Not only did his wife Suzanne become an attorney, he has passed his interest in the law down to his children. His son Timothy is an attorney who married yet another attorney, his wife Diane. While his daughter Nancy has chosen another path, that of a CPA, she has been wise enough to marry still another attorney, Hugh Murray.

Finally, Mr. President, I want to point out the critical need of this nomination. Connecticut's District Court is an extremely busy one. With recent retirements, the court is down to five active judges in a district that requires nine to approach the national average caseload per active sitting judge.

Given the needs of the court—and the high qualifications of the nominee—I am delighted that the full Senate is acting expeditiously on this matter of critical importance to the residents of Connecticut.

I am proud to support the nomination of this highly talented jurist. He will make an excellent addition to the district court.

NOMINATION OF ROBERT E. MARTINEZ

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Committee on Commerce, Science, and Transportation be discharged from further consideration of the nomination of Robert E. Martinez, the Associate Deputy Director of Transportation; that the Senate proceed to the immediate consideration of the nominee; that the nominee be confirmed; that any statements appear in the RECORD, as if read; that the motion to reconsider be laid upon the table; that the President be immediately notified of the Senate's action, and that the Senate return to legislative session.

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

The nomination considered and confirmed is as follows:

Robert E. Martinez, to be Associate Deputy Secretary.

LEGISLATIVE SESSION

The PRESIDING OFFICER. Under the previous order, the Senate will now return to legislative session.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. McCathran, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations and a treaty which were referred to the appropriate committee.

(The nominations and treaty received today are printed at the end of the Senate proceedings.)

MESSAGES FROM THE HOUSE

ENROLLED BILLS SIGNED

At 11:06 a.m., a message from the House of Representatives, delivered by Ms. Goetz, one of its reading clerks, announced that the Speaker has signed the following enrolled bills:

S. 544. An act to protect animal enterprises;

S. 807. An act to permit Mount Olivet Cemetery Association of Salt Lake City, Utah, to lease a certain tract of land for a period of not more than 70 years; and

S. 3112. An act to amend the Public Health Service Act to make certain technical corrections, and for other purposes.

The enrolled bills were subsequently signed by the President pro tempore [Mr. BYRD].

At 12:03 p.m., a message from the House of Representatives, delivered by Ms. Goetz, one of its reading clerks, announced that the House has passed the following bill, without amendment:

S. 1963. an act to amend section 992 of title 28, United States Code, to provide a member of the United States Sentencing Commission whose term has expired may continue to serve until a successor is appointed or until the expiration of the next session of Congress.

The message also announced that the House agrees to the amendment of the Senate to the bill (H.R. 2152) to enhance the effectiveness of the United Nations International Driftnet Fishery Conservation Program; with amendments, in which it requests the concurrence of the Senate.

The message further announced that the House has passed the following bill, in which it requests the concurrence of the Senate:

H.R. 5482. An act to revise and extend the programs of the Rehabilitation Act of 1973, and for other purposes.

At 12:55 p.m., a message from the House of Representatives, delivered by Ms. Goetz, one of its reading clerks, announced that the House passed the following bill, in which it requests the concurrence of the Senate:

H.R. 4250. An act to authorize appropriations for the National Railroad Passenger Corporation, and for other purposes.

At 3:46 p.m., a message from the House of Representatives, delivered by Ms. Goetz, one of its reading clerks, announced that the House has passed the following bills, in which it requests the concurrence of the Senate:

H.R. 240. An act for the relief of Rodgito Keller;

H.R. 455. An act for the relief of Melissa Johnson;

H.R. 712. An act for the relief of Patricia A. McNamara;

H.R. 1759. An act for the relief of James B. Stanley;

H.R. 2563. An act for the relief of Richard W. Schaffert;

H.R. 2731. An act to amend section 3724 of title 31, United States Code, to extend to the Secretary of the Treasury the authority to settle claims for damages resulting from law enforcement activities of the Customs Service, the Bureau of Alcohol, Tobacco, and Firearms, or the United States Secret Service;

H.R. 3590. An act for the relief of Lloyd B. Gamble;

H.R. 3664. An act for the relief of the estate of Irwin Rutman;

H.R. 4400. An act to provide the Administrator of the Small Business Administration continued authority to administer the Small Business Innovation Research Program, and for other purposes;

H.R. 4412. An act to amend title 17, United States Code, relating to fair use of copyrighted works;

H.R. 4563. An act to amend the False Claims Act to provide certain limitations on Federal employees filing qui tam actions, and for other purposes;

H.R. 4615. An act to contribute to the conservation of the northern spotted owl and the protection of old growth resources through support for an experimental management program on State-owned trust lands on the western Olympic Peninsula of the State of Washington;

H.R. 4776. An act to amend the Contract Services for Drug Dependent Federal Offenders Act of 1978 to provide additional authorizations of appropriations;

H.R. 5013. An act to promote the conservation of wild exotic birds, to provide for the Great Lakes Fish and Wildlife Tissue Bank, to reauthorize the Fish and Wildlife Conservation Act of 1980, to reauthorize the African Elephant Conservation Act, and for other purposes;

H.R. 5021. An act to amend the Wild and Scenic Rivers Act for the purposes of determining the eligibility and suitability of designating a segment of the New River as a national wild and scenic river; and

H.R. 5753. An act to make technical corrections to title 23, United States Code, the Federal Transit Act, and the Intermodal Surface Transportation Efficiency Act of 1991, and for other purposes.

The message also announced that the House has agreed to the following concurrent resolution, in which it requests the concurrence of the Senate:

H. Con. Res. 355. A concurrent resolution concerning Israel's recent elections and the visit by Israel Prime Minister Yitzhak Rabin to the United States.

ENROLLED BILL SIGNED

At 4:54 p.m., a message from the House of Representatives, delivered by Ms. Goetz, one of its reading clerks, announced that the Speaker has signed the following enrolled bill:

H.R. 5487. An act making appropriations for Agriculture, Rural Development, Food and Drug Administration, and Related Agen-

cies programs for the fiscal year ending September 30, 1993, and for other purposes.

The enrolled bill was subsequently signed by the President pro tempore [Mr. BYRD].

MEASURES REFERRED

The following bills were read the first and second times by unanimous consent:

H.R. 240. An act for the relief of Rodgito Keller; to the Committee on the Judiciary.

H.R. 455. An act for the relief of Melissa Johnson; to the Committee on the Judiciary.

H.R. 712. An act for the relief of Patricia A. McNamara; to the Committee on the Judiciary.

H.R. 1759. An act for the relief of James B. Stanley; to the Committee on the Judiciary.

H.R. 2563. An act for the relief of Richard W. Schaffert; to the Committee on the Judiciary.

H.R. 2731. An act to amend section 3724 of title 31, United States Code, to extend to the Secretary of the Treasury the authority to settle claims for damages resulting from law enforcement activities of the Customs Service, the Bureau of Alcohol, Tobacco, and Firearms, or the United States Secret Service; to the Committee on the Judiciary.

H.R. 3590. An act for the relief of Lloyd B. Gamble; to the Committee on the Judiciary.

H.R. 3664. An act for the relief of the estate of Irwin Rutman; to the Committee on the Judiciary.

H.R. 4400. An act to provide the Administrator of the Small Business Administration continued authority to administer the Small Business Innovation Research Program, and for other purposes; to the Committee on Small Business.

H.R. 4412. An act to amend title 17, United States Code, relating to fair use of copyrighted works;

H.R. 4563. An act to amend the False Claims Act to provide certain limitations on Federal employees filing qui tam actions, and for other purposes; to the Committee on the Judiciary.

H.R. 4615. An act to contribute to the conservation of the northern spotted owl and the protection of old growth resources through support for an experimental management program on Stateowned trust lands on the western Olympic Peninsula of the State of Washington; to the Committee on Energy and Natural Resources.

H.R. 4776. An act to amend the Contract Services for Drug Dependent Federal Offenders Act of 1978 to provide additional authorizations of appropriations; to the Committee on the Judiciary.

H.R. 5013. An act to promote the conservation of wild exotic birds, to provide for the Great Lakes Fish and Wildlife Tissue Bank, to reauthorize the Fish and Wildlife Conservation Act of 1980, to reauthorize the African Elephant Conservation Act, and for other purposes; to the Committee on Environment and Public Works.

H.R. 5021. An act to amend the Wild and Scenic Rivers Act for the purposes of determining the eligibility and suitability of designating a segment of the New River as a national wild and scenic river; to the Committee on Energy and Natural Resources.

H.R. 5753. An act to make technical corrections to title 23, United States Code, the Federal Transit Act, and the Intermodal Surface Transportation Efficiency Act of 1991, and for other purposes: to the Committee on Environment and Public Works.

H.R. 5830. An act to expedite construction of highway projects which provide additional quality jobs; to the Committee on Environment and Public Works.

The following bill, previously received from the House of Representatives for concurrence, was read the first and second times by unanimous consent, and referred as indicated:

H.R. 5741. An act entitled the "Perishable Agricultural Commodities Act Technical Amendments of 1992"; to the Committee on Agriculture, Nutrition, and Forestry.

MEASURES PLACED ON THE CALENDAR

The Committee on the Judiciary was discharged from the further consideration of the following bill; which was placed on the calendar:

S. 640. A bill to regulate interstate commerce by providing for a uniform product liability law, and for other purposes.

ENROLLED JOINT RESOLUTION PRESENTED

The Secretary of the Senate reported that on today, August 12, 1992, he had presented to the President of the United States the following enrolled joint resolution:

S.J. Res. 270. Joint resolution to designate August 15, 1992, as "82d Airborne Division 50th Anniversary Recognition Day".

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. INOUYE, from the Select Committee on Indian Affairs, with an amendment in the nature of a substitute:

S. 1687. A bill to increase the capacity of Indian tribal governments for waste management on Indian lands, and for other purposes (Rept. No. 102-370).

By Mr. JOHNSTON, from the Committee on Energy and Natural Resources, with an amendment in the nature of a substitute:

S. 2572. A bill to authorize an exchange of lands in the States of Arkansas and Idaho (Rept. No. 102-371).

By Mr. BIDEN, from the Committee on the Judiciary, with an amendment in the nature of a substitute and an amendment to the title:

S. 1521. A bill to provide a cause of action for victims of sexual abuse, rape, and murder, against producers and distributors of hard-core pornographic material (Rept. No. 102-372).

By Mr. INOUYE, from the Select Committee on Indian Affairs, with an amendment in the nature of a substitute:

S. 2833. A bill to resolve the 107th Meridian boundary dispute between the Crow Indian Tribe, the Northern Cheyenne Indian Tribe and the United States and various other issues pertaining to the Crow Indian Reservation (Rept. No. 102-373).

By Mr. INOUYE, from the Select Committee on Indian Affairs, without amendment:

S. 3095. A bill to restore and clarify the Federal relationship with the Jena Band of Choctaws of Louisiana (Rept. No. 102-374).

By Mr. KENNEDY, from the Committee on Labor and Human Resources, with an amendment in the nature of a substitute:

S. 2141. A bill to amend the Public Health Service Act to improve the quality of long-term care insurance through the establishment of Federal standards, and for other purposes (Rept. No. 102-375).

By Mr. CRANSTON, from the Committee on Veterans' Affairs, with an amendment in the nature of a substitute:

S. 2323. A bill to amend title 38, United States Code, to revise the rates of dependency and indemnity compensation payable to surviving spouses of certain service-disabled veterans, to provide supplemental service-disabled veterans' insurance for totally disabled veterans, and for other purposes. (Rept. No. 102-376).

By Mr. CRANSTON, from the Committee on Veterans' Affairs, with an amendment in the nature of a substitute and an amendment to the title:

S. 2515. A bill to authorize the establishment of job training programs for unemployed veterans and persons who have been recently separated from the Armed Forces, to pay certain assistance and benefits to employers of such veterans and persons, such veterans, and such persons to defray certain costs relating to the provision of such training, and for other purposes (Rept. No. 102-377).

By Mr. CRANSTON, from the Committee on Veterans' Affairs, with an amendment in the nature of a substitute:

S. 2528. A bill to amend chapter 37 of title 38, United States Code, to establish a pilot program for furnishing housing loans to Native American veterans, and for other purposes (Rept. No. 102-378).

S. 2647. A bill to amend title 38, United States Code, and title 10, United States Code, to revise and improve educational assistance programs for veterans and members of the Armed Forces, to improve certain vocational assistance programs for veterans, and for other purposes (Rept. No. 102-379).

By Mr. KENNEDY, from the Committee on Labor and Human Resources, with an amendment in the nature of a substitute:

S. 600. A bill to amend the Fair Labor Standards Act of 1938 to improve enforcement of the child labor provisions of such act, and for other purposes (Rept. No. 102-380).

By Mr. HOLLINGS, from the Committee on Commerce, Science, and Transportation, without amendment:

S. 2496. A bill to authorize a certificate of documentation for the vessel *Delphinus II* (Rept. No. 102-381).

By Mr. HOLLINGS, from the Committee on Commerce, Science, and Transportation, with an amendment:

S. 2497. A bill to authorize a certificate of documentation for the vessel *Touch of Class* (Rept. No. 102-382).

By Mr. HOLLINGS, from the Committee on Commerce, Science, and Transportation, without amendment:

S. 2498. A bill to authorize a certificate of documentation for the vessel *Liquid Gold* (Rept. No. 102-383).

S. 2700. A bill to authorize appropriations for fiscal year 1993 for the Federal Maritime Commission (Rept. No. 102-384).

S. 2767. A bill to authorize a certificate of documentation for the research vessel *Brown Bear* (Rept. No. 102-385).

S. 2768. A bill to authorize a certificate of documentation for the fish processing vessel *Yupik Star* (Rept. No. 102-386).

S. 2816. A bill to authorize a certificate of documentation for the vessel *Bay Lady* (Rept. No. 102-387).

S. 2844. A bill to clear certain impediments to the licensing of a vessel for employment

in the coastwise trade and fisheries of the United States (Rept. No. 102–388).

H.R. 4485. A bill to authorize reimbursement of expenses for overseas inspections and examination of foreign vessels (Rept. No. 102–389).

By Mr. BIDEN, from the Committee on the Judiciary, without amendment:

H.R. 454. A bill for the relief of Bruce C. Veit.

H.R. 478. A bill for the relief of Norman R. Ricks.

By Mr. PELL, from the Committee on Foreign Relations, without amendment and with a preamble:

S. Res. 331. Resolution to commemorate Hungarian National Holiday.

By Mr. BIDEN, from the Committee on the Judiciary, without amendment:

S. 1181. A bill for the relief of Christy Carl Hallien, of Arlington, TX.

S. 1859. A bill for the relief of Patricia A. McNamara.

S. 1947. A bill for the relief of Craig A. Klein.

By Mr. JOHNSTON, from the Committee on Energy and Natural Resources, with an amendment in the nature of a substitute:

S. 2606. A bill to further clarify authorities and duties of the Secretary of Agriculture in issuing ski area permits on National Forest System lands.

By Mr. BIDEN, from the Committee on the Judiciary, without amendment:

S. 2964. A bill granting the consent of the Congress to a supplemental compact or agreement between the Commonwealth of Pennsylvania and the State of New Jersey concerning the Delaware River Port Authority.

By Mr. PELL, from the Committee on Foreign Relations, without amendment and with a preamble:

S. Con. Res. 134. Concurrent resolution to commend the people of the Philippines for successfully conducting peaceful general elections and to congratulate Fidel Ramos for his election to the Presidency of the Philippines.

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. NUNN, from the Committee on Armed Services:

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. Hansford T. Johnson, 251–58–7597, 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. Howell M. Estes, III, 578–56–5497, 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(a):

To be lieutenant general

Maj. Gen. Donald M. Lionetti, 144–30–6344, United States Army.

Mr. NUNN. Mr. President, from the Committee on Armed Services, I report favorably the attached listing of nominations.

Those identified with a single asterisk (*) are to be placed on the Executive Calendar. Those identified with a double asterisk (**) are to lie on the Secretary's desk for the information of any Senator since these names have already appeared in the CONGRESSIONAL RECORD and to save the expense of printing again.

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

(The nominations ordered to lie on the Secretary's desk were printed in the RECORDS of January 22, March 10, March 18, March 24, April 28, June 2, and June 11, 1992, at the end of the Senate proceedings.)

*In the Navy there are 6 promotions to the grade of rear admiral (lower half) (list begins with David Sidney Frost) (Reference No. 828).

*In the Naval Reserve there are 10 promotions to the grade of rear admiral (lower half) list begins with Kenneth Leroy Fisher) (Reference No. 829).

**In the Marine Corps there are 29 appointments to the grade of colonel (list begins with Gary W. Anderson) (Reference No. 851–2).

Vice Admiral Michael C. Colley, USN for reappointment to the grade of vice admiral (Reference No. 920).

*In the Naval Reserve there are two promotions to the grade of rear admiral (list begins with Donald Eugene Roy) (Reference No. 942).

**In the Naval Reserve there are 523 promotions to the grade of captain (list begins with Lloyd Vermillion Abel) (Reference No. 944).

*In the Navy there are 4 promotions to the grade of rear admiral (list begins with Harold Martin Koenig) (Reference No. 953).

*In the Navy there are 13 promotions to the grade of rear admiral (list begins with Brent Martin Bennitt) (Reference No. 964).

**In the Navy there are 132 promotions to the grade of captain (list begins with George Boardman Allison) (Reference No. 969–2).

*Vice Admiral Michael P. Kalleres, USN for reappointment to the grade of vice admiral (Reference No. 996).

**In the Marine Corps there are 62 appointments to the grade of lieutenant colonel (list begins with David W. Anderson) (Reference No. 997–2).

**In the Marine Corps there are 105 appointments to the grade of major (list begins with Donald J. Anderson) (Reference No. 1109–2).

**In the Navy there are 80 promotions to the grade of captain (list begins with Mark D. Browning) (Reference No. 1110–2).

**In the Navy there are 848 promotions to the grade of commander (list begins with Ronald Lee Aasland) (Reference No. 1111).

* Vice Admiral John A. Baldwin, Jr., USN to be placed on the retired list in the grade of vice admiral (Reference No. 1145).

* Vice Admiral Francis R. Donovan, USN to be placed on the retired list in the grade of vice admiral (Reference No. 1146).

** In the Naval Reserve there are 705 promotions to the grade of commander (list begins with Bruce Allen Abbott) (Reference No. 1196).

* In the Naval Reserve there are 2 promotions to the grade of rear admiral (list begins with Ronald Rhys Morgan) (Reference No. 1210).

** In the Marine Corps Reserve there are 23 appointments to the grade of colonel (list begins with Paul D. Allen, Jr.) (Reference No. 1226–2).

* Lieutenant General Ronald R. Fogleman, USAF to be general (Reference No. 1309).

* Major General Howell M. Estes, III, USAF to be lieutenant general (Reference No. 1310).

* General Hansford T. Johnson, USAF to be placed on the retired list in the grade of general (Reference No. 1326).

* Vice Admiral K. U. Kihune, USN, for reappointment to the grade of vice admiral (Reference No. 1327).

Grand Total: 2,552.

By Mr. PELL, from the Committee on Foreign Relations:

Patricia Diaz Dennis, of Virginia, to be Assistant Secretary of State for Human Rights and Humanitarian Affairs;

Alan Greenspan, of New York, to be United States Alternative Governor of the International Monetary Fund for a period of five years;

Anthony Cecil Eden Quainton, of the District of Columbia, a Career Member of the Senior Foreign Service, Class of Career Minister, to be Assistant Secretary of State for Diplomatic Security;

Parker W. Borg, of Minnesota, a Career Member of the Senior Foreign Service, Class of Minister-Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States to the Union of Burma (Myanmar) (Exec. Rept. No. 102–52).

(Contributions are to be reported for the period beginning on the first day of the fourth calendar year preceding the calendar year of the nomination and ending on the date of the nomination.)

Nominee: Parker W. Borg.

Post: Burma (Myanmar).

Contributions, amount, date, donee.

1. Self, none.

2. Spouse, none.

3. Children and Spouses. Names all under 10 yrs of age.

4. Parents names. Betty W. Borg, Lloyd E. Borg (deceased 5/82).

5. Grandparents names, deceased.

6. Brothers and spouses names, none.

7. Sisters and spouses names. Merrily Borg Babcock, Leslie Anne Borg (both divorced more than 10 years), none.

Harriet Winsar Isom, of Oregon, a Career Member of the Senior Foreign Service, Class of Minister-Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Cameroon.

(Contributions are to be reported for the period beginning on the first day of the fourth calendar year preceding the calendar year of the nomination and ending on the date of the nomination.)

Nominee: Harriet Winsar Isom.

Post: Cameroon.

Contributions, amount, date, donee.

1. Self, none.

2. Spouse, no spouse.

3. Children and spouses, names, no children.

4. Parents, names, Blaine Isom, deceased, Evelyn Isom, deceased.

5. Grandparents, names, deceased.

6. Brothers and spouses, names, N/A.

7. Sisters and spouses, names, N/A.

Mack F. Mattingly, of Georgia, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Seychelles.

(Contributions are to be reported for the period beginning on the first day of the fourth calendar year preceding the calendar year of the nomination and ending on the date of the nomination.)

Nominee: Mack F. Mattingly.
Post: Ambassador to the Republic of Seychelles.
Contributions, amount, date, donee.
1. Self, (in-Kind contributions only) Computer contributor list value, $1,000, 1990, John Linder, Auto signing machine (used) value $1,000, 1990, NEWT GINGRICH.
2. Spouse, Mrs. Carolyn L. Mattingly, none.
3. Children and spouses names, Mr. & Mrs. Mark Williams and Mr. & Mrs. Lee Anderson, none.
4. Parents names, deceased.
5. Grandparents names, deceased.
6. Brothers and spouses names, Mrs. Rosemary Mattingly, none.
7. Sisters and spouses names, none.

Ruth A. Davis, of Georgia, a Career Member of the Senior Foreign Service, Class of Minister-Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Benin.

(Contributions are to be reported for the period beginning on the first day of the fourth calendar year preceding the calendar year of the nomination and ending on the date of the nomination.)

Nominee: Ruth A. Davis
Post: Republic of Benin
Contributions, amount, date, donee.
1. Self, none.
2. Spouse, no spouse.
3. Children and spouses names, no children.
4. Parents names, Anderson Davis, Edith Davis, none.
5. Grandparents names, deceased.
6. Brothers and spouses names, no brother.
7. Sisters and spouses names, Eugenia Davis Clements, Jeffrey Clements, none.

(The above nominations were reported with the recommendation that they be confirmed, subject to the nominees' commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

By Mr. BIDEN, from the Committee on the Judiciary:

Alvin A. Schall, of Maryland, to be United States Circuit Judge for the Federal Circuit;

Ilana Diamond Rovner, of Illinois, to be United States Circuit Judge for the Seventh Circuit;

John G. Heyburn, II, of Kentucky, to be United States District Judge for the Western District of Kentucky;

Linda L. McLaughlin, of California, to be United States District Judge for the Central District of California;

Alfred V. Covello, of Connecticut, to be United States District Judge for the District of Connecticut;

Carol E. Jackson, of Missouri, to be United States District Judge for the Eastern District of Missouri;

Joseph A. DiClerico, Jr., of New Hampshire, to be United States District Judge for the District of New Hampshire; and

Michael J. Melloy, of Iowa, to be United States District Judge for the Northern district of Iowa.

By Mr. Biden, from the Committee on the Judiciary:

John F. Daffron, Jr., of Virginia, to be a Member of the Board of Directors of the State Justice Institute for a term expiring September 17, 1994;

Terrence B. Adamson, of Georgia, to be a Member of the Board of Directors of the State Justice Institute for a term expiring September 17, 1994; and

The following-named persons to be Commissioners of the United States Parole Commission for the terms indicated:

Edward F. Reilly, of Kansas, for the remainder of the term expiring November 1, 1997, vice Benjamin F. Baer.

For the remainder of the term expiring November 1, 1997, vice Cameron M. Batjer, resigned.

(The above nominations were reported with the recommendation that it be confirmed, subject to the nominees' commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

By Mr. KENNEDY, from the Committee on Labor and Human Resources:

Glen L. Bower, of Illinois, to be a Member of the Railroad Retirement Board for a term of five years from August 29, 1992;

Jerome F. Kever, of Illinois, to be a Member of the Railroad Retirement Board for the remainder of the term expiring August 28, 1993; and

Virgil M. Speakman, Jr., of Ohio, to be a Member of the Railroad Retirement Board for the remainder of the term expiring August 28, 1994.

(The above nominations were reported with the recommendation that they be confirmed, subject to the nominees' commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

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. SPECTER:

S. 3176. A bill to enhance informed individual choice regarding health care services by providing certain information to health care recipients, to lower the cost of health care through use of the most appropriate provider, to improve the quality of health care, and for other purposes; to the Committee on Finance.

By Mr. KOHL (for himself, Mr. SPECTER, Mr. LIEBERMAN, Mr. WOFFORD, Mr. CONRAD, Mr. KASTEN, Mr. JEFFORDS, Mr. GRASSLEY, Mr. COATS, Mr. LUGAR, Mr. COHEN, Mr. HARKIN, Mr. WELLSTONE, and Mr. LEAHY):

S. 3177. A bill to amend title 13, United States Code, to require the Secretary of Commerce to notify the Senate and House of Representatives about changes in the methodology for producing numbers used in any Federal funding formula; to the Committee on Governmental Affairs.

By Mr. SPECTER (for himself, Mr. KOHL, Mr. KASTEN, Mr. JEFFORDS, Mr. GRASSLEY, Mr. COATS, Mr. LUGAR, Mr. COHEN, Mr. LIEBERMAN, Mr. WOFFORD, Mr. CONRAD, Mr. HARKIN, Mr. WELLSTONE, Mr. LEAHY, and Mr. GLENN):

S. 3178. A bill to prohibit the use of appropriated funds to adjust the 1990 decennial census or any intercensal estimates by the Bureau of the Census; to the Committee on Governmental Affairs.

By Mr. KENNEDY (for himself, Mr. HATCH, Mr. DURENBERGER, Mr. WELLSTONE, and Mr. MITCHELL):

S. 3179. A bill to amend title IX of the Public Health Service Act to revise and extend programs under such title, and for other purposes; to the Committee on Labor and Human Resources.

By Mr. LEAHY (for himself, Mr. PRYOR, Mr. MITCHELL, Mr. ROCKEFELLER, Mr. RIEGLE, Mr. CHAFEE, Mr. DANFORTH, Mr. KERREY, Mr. WELLSTONE, Mr. ADAMS, Mr. AKAKA, Mr. BINGAMAN, Mr. GRAHAM, Mr. INOUYE, and Mr. JEFFORDS):

S. 3180. A bill to amend the Social Security Act to provide grants for the establishment of State demonstration projects for comprehensive health care reform, and for other purposes; to the Committee on Finance.

By Mr. DOMENICI (for himself and Mr. SANFORD):

S. 3181. A bill to establish a filing deadline and to provide certain safeguards to curb frivolous and other cases not substantially justified which are brought under the Securities and Exchange Act's implied private action provisions; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. DURENBERGER (for himself, Mr. WOFFORD, Mr. ROCKEFELLER, Mr. DASCHLE, Mr. KASTEN, and Mr. KOHL):

S. 3182. A bill to amend the Trade Act of 1974 with respect to articles not eligible for duty-free treatment under the Generalized System of Preferences; to the Committee on Finance.

By Mr. DASCHLE (for himself and Mr. BINGAMAN):

S. 3183. A bill to amend the Public Health Service Act to provide a comprehensive program for the prevention of Fetal Alcohol Syndrome, and for other purposes; to the Committee on Labor and Human Resources.

By Mr. ADAMS (for himself and Mr. METZENBAUM):

S. 3184. A bill to amend the Employee Retirement Income Security Act of 1974 to expand pension coverage, to improve pension portability, and to increase retirement savings, and for other purposes; to the Committee on Labor and Human Resources.

By Mr. CHAFEE:

S. 3185. A bill to amend title XVIII of the Social Security Act to expand and improve access to medicare select policies, and to make technical corrections to provisions relating to medicare supplemental insurance policies; to the Committee on Finance.

By Mr. ADAMS (for himself, Mr. BINGAMAN, and Mr. METZENBAUM):

S. 3186. A bill to amend the Public Health Service Act to prohibit physicians from referring patients to health entities in which they have a financial relationship and for other purposes; to the Committee on Labor and Human Resources.

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

S. 3187. A bill to amend title XIX of the Social Security Act to improve programs related to home and community based care and community supported living arrangements, and for other purposes; to the Committee on Finance.

By Mr. GRAHAM:

S. 3188. A bill to establish the representative and administrative entities necessary to carry out section 8 of the Florida Keys National Marine Sanctuary and Protection Act; to the Committee on Environment and Public Works.

By Mr. KERRY:

S. 3189. A bill to implement the Protocol on Environmental Protection to the Antarctic Treaty, and for other purposes; to the Committee on Foreign Relations.

By Mr. ROCKEFELLER (for himself and Ms. MIKULSKI):

S. 3190. A bill to amend section 182 of the Trade Act of 1974 to permit the United States to respond to the actions of countries that do not provide adequate and effective patent protection to the United States nationals; to the Committee on Finance.

By Mr. MOYNIHAN:

S. 3191. A bill to amend title XIX of the Social Security Act to increase State flexibility to use coordinated care programs and to allow States to contain costs and improve access to and quality of, coordinated care services under the medicaid program; to the Committee on Finance.

By Mr. BREAUX:

S. 3192. A bill to reform and revitalize the shipbuilding industry of the United States; to the Committee on Commerce, Science, and Transportation.

By Mr. BIDEN:

S. 3193. A bill to consolidate within the executive branch of Government authorities in law to control the transfer to foreign countries of military equipment and technology and dual-use goods and technology; to the Committee on Foreign Relations.

By Mr. KASTEN:

S. 3194. A bill to amend provisions of the Federal Deposit Insurance Corporation Improvement Act of 1991 pertaining to small business loans; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. GLENN (for himself and Mr. THURMOND):

S. 3195. A bill to require the Secretary of the Treasury to mint coins in commemoration of the 50th anniversary of the United States' involvement in World War II; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. LEAHY:

S. 3196. A bill to amend section 26 of the Act of March 3, 1901, and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Mr. THURMOND:

S. 3197. A bill to improve the administration of bankruptcy estates, and for other purposes; to the Committee on the Judiciary.

S. 3198. A bill for the relief of Horace Martin; to the Committee on the Judiciary.

By Mr. KASTEN:

S. 3199. A bill to require Federal funding for any Federal requirement applicable to a State or local government; to the Committee on Governmental Affairs.

By Mr. DASCHLE:

S. 3200. A bill to amend the Civil Rights Act of 1991 to apply the National Labor Relations Act, the Fair Labor Standards Act of 1938, and the Occupational Safety Act of 1970 to Congress, and for other purposes; to the Committee on Governmental Affairs.

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

S. 3201. A bill to require the Secretary of Agriculture to convey certain lands in Austin, Nevada, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. KERREY (for himself, Mr. DURENBERGER, Mr. PRYOR, Mr. EXON, Mr. DASCHLE, Mr. BURDICK, Mr. HARKIN, Mr. CONRAD, Mr. WELLSTONE, and Mr. GRASSLEY):

S. 3202. A bill to amend the Agricultural Act of 1949 to improve the farmer owned reserve program, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. BAUCUS:

S. 3203. A bill to prohibit senior Presidential campaign staff members from engaging in political activities as agents of foreign principals; to the Committee on Governmental Affairs.

By Mr. MACK (for himself, Mr. SEYMOUR, and Mr. GRAHAM):

S. 3204. A bill to require the use, in Federal formula grant programs, of adjusted census data, and for other purposes; to the Committee on Governmental Affairs.

By Mr. MACK (for himself, Mr. SEYMOUR, Mr. GRAHAM, and Mr. CRANSTON):

S. 3205. A bill to require that, in the administration of any benefits program established by or under Federal law which requires the use of data obtained in the most recent decennial census, the 1990 adjusted census data be considered the official data for such census; to the Committee on Governmental Affairs.

By Mr. MACK (for himself, Mr. SEYMOUR, and Mr. GRAHAM):

S. 3206. A bill to provide for the utilization of the latest available census data in certain laws related to airport improvements; to the Committee on Commerce, Science, and Transportation.

S. 3207. A bill to provide for the utilization of the most current census data in certain laws related to the environment and public works; to the Committee on Environment and Public Works.

S. 3208. A bill to provide for the utilization of the latest available census data in certain laws related to Energy and Natural Resources; to the Committee on Energy and Natural Resources.

S. 3209. A bill to provide interim current census data on below poverty, urban, rural, and farm populations; to the Committee on Governmental Affairs.

S. 3210. A bill to utilize the most current Federal census data in the distribution of Federal funds for agriculture, nutrition, and forestry; to the Committee on Agriculture, Nutrition, and Forestry.

S. 3211. A bill to provide for the utilization of the latest available census data in certain laws related to urban mass transportation; to the Committee on Banking, Housing, and Urban Affairs.

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

S. 3212. A bill to amend the Social Security Act to improve access to medicaid benefits and to reduce State administrative burdens under the medicaid program; to the Committee on Finance.

By Mr. DASCHLE (for himself, Mr. PRESSLER, Mr. KERREY, Mr. BURNS, and Mr. PELL):

S. 3213. A bill to authorize the establishment of the Chief Big Foot National Memorial park and the Wounded Knee National Memorial in the State of South Dakota, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. SIMPSON (for himself, Mr. D'AMATO, Mr. SHELBY, and Mr. SEYMOUR):

S. 3214. A bill to amend the Immigration and Nationality Act to improve the admissions process at airports and other ports of entry; to the Committee on the Judiciary.

By Mr. KASTEN (for himself, Mr. LIEBERMAN, and Mr. MACK):

S. 3215. A bill to amend the Internal Revenue Code of 1986 to provide incentives for investments in disadvantaged business enterprises; to the Committee on Finance.

By Mr. MOYNIHAN:

S. 3216. A bill to direct the Secretary of the Army to conduct an investigation of the Long Island Sound that includes the development and construction of a model, and for other purposes; to the Committee on Environment and Public Works.

By Mr. DECONCINI:

S.J. Res. 333. A joint resolution designating the week beginning February 7, 1993, as "Lincoln Legacy Week"; to the Committee on the Judiciary.

By Mr. MITCHELL (for himself, Mr. AKAKA, Mr. BENTSEN, Mr. BAUCUS, Mr. BINGAMAN, Mr. BRADLEY, Mr. BREAUX, Mr. BRYAN, Mr. BURDICK, Mr. CRANSTON, Mr. CONRAD, Mr. DODD, Mr. FOWLER, Mr. GLENN, Mr. GRAHAM, Mr. HEFLIN, Mr. HOLLINGS, Mr. JOHNSTON, Mr. INOUYE, Mr. KENNEDY, Mr. LAUTENBERG, Mr. LEVIN, Mr. LIEBERMAN, Mr. METZENBAUM, Mr. NUNN, Mr. PELL, Mr. ROCKEFELLER, Mr. REID, Mr. RIEGLE, Mr. SASSER, Mr. SHELBY, Mr. SIMON, Mr. MOYNIHAN, Mr. DOLE, Mr. D'AMATO, Mr. CHAFEE, Mr. DOMENICI, Mr. DURENBERGER, Mr. KASTEN, Mrs. KASSEBAUM, Mr. MACK, Mr. MURKOWSKI, Mr. PACKWOOD, Mr. RUDMAN, Mr. SEYMOUR, Mr. SYMMS, Mr. WARNER, Mr. STEVENS, Mr. COHEN, Mr. BOND, Mr. COCHRAN, Mr. WALLOP, and Mr. GARN):

S.J. Res. 334. A joint resolution designating September 1992 as "Childhood Cancer Month"; to the Committee on the Judiciary.

By Mr. AKAKA (for himself, Mr. INOUYE, and Mr. SIMON):

S.J. Res. 335. A joint resolution to acknowledge the 100th anniversary of the January 17, 1893 overthrow of the Kingdom of Hawaii, and to offer an apology to Native Hawaiians on behalf of the United States for the overthrow of the Kingdom of Hawaii; 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. MITCHELL (for himself and Mr. DOLE):

S. Res. 335. A resolution to authorize documentary production in United States of America v. Caspar W. Weinberger; considered and agreed to.

By Mr. THURMOND:

S. Res. 336. A resolution to refer S. 3198 entitled "A bill for the relief of Horace Martin," to the Chief judge of the United States Claims Court for a report thereon; to the Committee on the Judiciary.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. SPECTER:

S. 3176. A bill to enhance informed individual choice regarding health care services by providing certain information to health care recipients, to lower the cost of health care through use of the most appropriate provider, to improve the quality of health care, and for other purposes; to the Committee on Finance.

HEALTH CARE AFFORDABILITY AND QUALITY IMPROVEMENT ACT OF 1992

Mr. SPECTER. Mr. President, I have sought recognition to discuss this morning the introduction of legislation

on the health care, titled the Health Care Affordability and Quality Improvement Act of 1992, which supplements legislation that this Senator has introduced in the past, as specified in the text of the fairly extensive floor statement, which I will not take time to deliver this morning.

In my view, Mr. President, it is indispensable that there be comprehensive, affordable health care for all Americans. I am opposed to rationing for myself, my family, or for America. I believe the essential question is whether we have sufficient resources—and that is medical personnel, doctors and nurses; support personnel; and hospital and pharmaceutical facilities—to provide health care for all Americans. I think we do.

The next questions is: How do we structure the financing so that it can be provided? And it is my hope, Mr. President, that this subject will be addressed by the Senate and the House yet this year.

On July 29, I offered an amendment to the energy bill which would have provided a substantial step forward toward comprehensive, affordable health care for all Americans. At that time, the amendment was defeated on technical and procedural grounds.

And I expressed the sentiment at that time—which I shall not go into in detail here because it is in the RECORD—that health care be scheduled this year with a date certain. We have a date certain for product liability, a very important subject; but no more important—in fact, less important—than health care.

In 1990, the Congress passed the Clean Air Act that many said was not doable. But the issue was brought to the floor, and task forces were formed which took up the complex questions of sulfuric acid in the air. We removed 10 million tons in a year. We made significant changes in industrial pollution and in tailpipe emissions. We had a balanced bill which protected the environment, and also had the appropriate balance with retention of jobs.

Just as we took on that tough line, Mr. President, I submit that if Congress tackles the issue of comprehensive, affordable health care for all Americans, we can do the job on that bill, as well.

The estimates are that we spend approximately $738 billion a year on health care. As I analyze our health care system, Mr. President, it is my thought that within that range of expenditure, with cost containment, we can extend comprehensive, affordable health care to all Americans.

I illustrate the human benefits and the savings on preventing the number of low birth weight births. I first saw 1-pound babies, Mr. President, in 1984, when I was astounded to learn that Pittsburgh, PA, had the highest infant mortality rate of African-American babies of any city in the United States. I wondered, how could that be true of Pittsburgh, which has such enormous medical resources. It was an amazing thing for me to see a 1-pound baby, about as big as my hand.

It is tough enough coming into this world if you weigh 8 pounds 10 ounces, as I was reported to have weighed when I was born. If you weigh 16 or 20 ounces, it is a human tragedy, and the consequences last long into life, even if a child has the medical treatment to come through it and to be released from the hospital.

Beyond the human tragedy of the 1-pound babies, there is the financial disaster. It costs up to $150,000, I am told, for each individual child before being released from the hospital. Furthermore, there is a tremendous problem of medical incidents and costs beyond the release from the hospital.

This is a multibillion-dollar savings which is available, Mr. President, if we provide prenatal and postnatal care. Doctor C. Everett Koop, former Surgeon General of the United States, made a suggestion, which is incorporated in my proposed legislation, that there be a bonus payment to teenage women who are pregnant of $500 who agree to five prenatal visits and one postnatal visit.

And while it would be preferable, obviously, in an ideal world not to provide such incentives, it has the ring of being very cost effective and an enormous savings to have that kind of prenatal care in advance. I am not wedded to that specific sum, but I think the idea is worth exploring by the Congress of the United States, in order to induce teenagers to have the kind of prenatal care which is so important for the health of their expected child and for their own health.

And the requirement further suggested by Dr. Koop that these pregnant teens be required, in order to get the bonus payment, to enroll in two courses at school, one on parenting and one on prenatal care. But these ideas for preventive health care are very important for adequate medical treatment to Americans, and also as a means of cutting down the costs.

My legislation contains further suggestions on cost containment through managed health care, which poses a possibility of reductions as high as 20 percent, or perhaps beyond. I also support enactment of legislation to reduce the cost of administration; and methods of reducing the burden of fraud in the United States. We have tremendous latitude within the range of the current expenses of $738 billion to provide medical care to all Americans.

And if this figure should prove insufficient—and only time well tell, as we work through the practical application of these ideas—we may have to expand Medicaid and Medicare to provide more support by the Federal Government for the poor or those who cannot be reached.

But there are many things we can do, Mr. President, with the legislation which is already pending, the legislation introduced by the task force chaired by Senator CHAFEE, with 24 Senate cosponsors, which includes having insurance premiums fully deductible for self-employed individuals. The anomaly in our law at the present time permits an employer to deduct fully insurance premiums paid for employees, but denies that same benefit for the self-employed, who are now permitted to deduct only 25 percent. That was part of the amendment which this Senator introduced on July 29, and it is part of S. 1936.

Previously, I also had introduced S. 1995, which provides for preventive health care, and also S. 1122 on long-term health care. This has been a matter of concern to this Senator for many, many years.

Among other legislative proposals which I have introduced was one in 1985, S. 1873, which was designed to provide for the development of community-based health services and community-based organizations to deal with the problems of low birth-weight babies.

Beyond the legislative proposals which I have enumerated, Mr. President, there are proposals pending which have been introduced by other Senators in this Chamber and by Members of the House of Representatives. So there is a wealth of ideas present and pending if we will just take up the subject and move to enact legislation which will provide comprehensive, affordable health care for all Americans.

Mr. President, affordable health care for all Americans should be to the top of our Nation's legislative agenda. Americans are fearful they will not be able to obtain health care when they need it. When people across the country were asked the question, "which needs the greatest attention from the Federal Government," health care availability ranked at the top along side improving the economy.

There are three fundamental factors contributing to the groundswell for national health care reform: the lack of access to care; the escalating cost of care, and the burdensome administrative requirements of care. Nearly 2 years ago Senator CHAFEE'S task force on health care was established. The task force was formed to develop a consensus on meaningful health care reform which would offer hope to the millions of Americans who are uninsured and or underinsured and implement reforms to reduce the escalating cost of care.

With the leadership of Senator CHAFEE, consensus was developed among 19 members and on November 7 of last year, we introduced S. 1936, the Health Equity and Access Improve-

ment Act of 1991. As an original sponsor of this legislation, I am pleased to report that it puts in place comprehensive reforms to improve access to health care for all individuals in this Nation.

Building upon the provisions of the task force bill, on November 20, 1991 I introduced S. 1995, the Health Care Access Affordability Act. This bill would invest $1.4 billion in additional resources in fiscal year 1993 in federally supported primary and preventive health programs. Increasing the provision of preventive health services, improving access to primary care and increasing the investment in research on understanding and treating disease, offer great promise for improving the health of our citizenry and reducing the need for costly acute care.

These bills supplemented legislation I had introduced on May 22, 1991, S. 1122, covering long-term health care.

Today, I am introducing legislation, the Health Care Affordability and Quality Improvement Act of 1992. This bill will implement reforms which will enhance a consumer's ability to choose appropriate health care by the most appropriate provider. I believe this will both improve the quality of health care delivery and will cut the escalating cost of health care in this country. I believe this bill can result in cost savings of billions of dollars, dollars which in turn can be used to insure the millions of uninsured and underinsured Americans.

The bill focuses on managing health care costs in several areas: First, enhancing consumer decisionmaking about their health care; second, reducing inefficient and unnecessary care; third, preventing costly neonatal care resulting from babies born of low birth weight; fourth, improving efficiency by permitting access to the most appropriate providers; fifth, encouraging the development of medical practice guidelines; and sixth, studying the feasibility of implementing health care expenditure targets.

Other areas of reform related to cost savings which must be addressed include eliminating health care fraud and streamlining the cumbersome and costly administrative structure within the health care system. A recent Government Accounting Office study estimated at $70 billion per year the cost of health care fraud in this country. Estimates for administrative costs are approximately 20 cents per dollar spent on health care, or nearly $150 billion annually. I believe that by effectuating savings on items like fraud and administrative costs plus the savings and coverage projected in this bill, S. 1122, S. 1936, and S. 1995, we can provide affordable health care for all Americans within the $738 billion now expended on medical care.

TITLE I—DISCLOSURE OF CERTAIN INFORMATION TO BENEFICIARIES UNDER THE MEDICARE AND MEDICAID PROGRAMS

In the last two decades, the role of the patient in American medicine has evolved considerably beyond that of a passive subject who is administered care by physicians and other practitioners. The 1970's saw the ideas of patient rights popularized and informed consent procedures adopted by most hospitals. At the same time, increased cost sharing for patients and a rising consumer movement began to make patients aware that they could have a greater voice in selecting the course of their treatment or the health care setting where care would be provided.

While the Nation's attention is focused on access to health care and how that care is to be financed, these two issues cannot be resolved satisfactorily without accommodating the consumer and focusing on patient-centered care. This should include, at a minimum, a payment system that gives patients choice among health care plans, physicians and nonphysician providers, and hospitals; that gives them ready access to the kind of patient information and education that allows informed choice, and that rewards the practitioners and facilities that provide the type of care consumers choose. Consumers should have available to them information to compare hospitals and health care providers on price and performance, much as people compare mileage rating, service records, and sticker prices when they shop for automobiles.

Mr. President, I believe that this new era of consumerism on the part of patients could bring profound benefits over time. Patient-centered care would put the health-care system more squarely in the business of serving the needs of patients with chronic and serious illness. This could change the nature of medical inquiry, leading to improvements in patient functioning, the reduction of pain, and the relief of anxieties that accompany illness.

It might lead to a different role for the family practitioner, one in which the patient's reports are crucial diagnostic information and the physician's counsel is a crucial therapeutic tool. An expanded concept of the purpose and value of the practitioner/patient interaction could in turn force the medical payment system to revalue the time practitioners spend with patients.

It could produce a generation of patient-interactive technologies, including educational material on treatment options and on self-management of chronic disease, as well as survey information on patients' assessments of competing medical groups, hospitals, and medical care plans. It could change how medical care is valued by ushering in a system in which patients' values regarding risks and benefits are central to determining the appropriate course of treatment.

Our Nation's health care system needs to accommodate the needs and experiences of patients. As the health care system moves toward this end, it will improve the health of the American people, expand the business of clinical care, alter the training and pursuits of health care providers, change the nature of patient education, change the care process of hospitals, and revise the way patient care is measured and rewarded.

To address patient-centered care and increase consumer participation, title I of the bill, entitled "Disclosure of Information To Beneficiaries Under The Medicare and Medicaid Programs," requires that institutional health care providers receiving payment for services provided under the Medicare and Medicaid programs make an annual report available to the beneficiaries. The annual report would include: first, mortality rates relating to services provided to individuals, including incidence and outcomes of surgical and other invasive procedures; second, hospital-originated infection rates; third, a list of routine preoperative tests and other frequently performed medical tests and the cost of such tests; and fourth, the number and types of malpractice against the institution decided or settled.

Each noninstitutional provider receiving Medicare and Medicaid payments is also required to make an annual report available to the beneficiaries. The annual report would include: First, provider's education, experience, qualifications, board certification, and license to provide health care services; second, disciplinary actions taken against the provider by any health care facility, State medical agency, or medical organization; third, malpractice actions against the provider decided or settled, and fourth, a disclosure of any provider health care ownership.

Finally, all health care providers receiving payment under Medicare and Medicaid are also required to make available certain information to the patient prior to the performance of a procedure. The following information is required: First, the nature of the procedure or treatment; second, a description of the procedure or treatment; third, the risk and benefits associated with the procedure, fourth, the success rate for the procedure or treatment generally to the extent ascertainable, and for the provider; fifth, the provider's cost range for the procedure; sixth, any alternative treatment which may be available; seventh, any known side effects of any medications required in connection with the procedure; and eighth, the interactive effect of the complete regimen of medications associated with the procedure.

TITLE II—PATIENT'S RIGHT TO DECLINE MEDICAL TREATMENT

Mr. President, I believe that it has become increasingly apparent that, de-

spite the enactment of landmark legislation by the Congress in November 1990, added safeguards need to be enacted in order to assure that patients are not needlessly and unlawfully treated contrary to their wishes.

In 1990, the Congress enacted the Patient Self-Determination Act as part of the Omnibus Budget Reconciliation Act of 1990. This landmark legislation states, in summary, that health care providers must adopt written policies concerning adult patients' rights, under State law, to consent to, or to refuse, treatment. The statute states, further, that providers must adopt written policies concerning adult patients' rights under State law to formulate so-called advance directives—written instruments by which incapacitated patients may "speak," despite incapacity, concerning their treatment wishes. Finally and most importantly, the Patient Self-Determination Act requires that health care providers inform patients of these rights in writing. Thus, the Patient Self-Determination Act enlists the assistance of health care providers in educating patients concerning their rights under State law.

The Patient Self-Determination Act's reliance entirely on State law in defining the scope and extent of patients' rights appears to have given rise to at least two problems. First, in many States the full scope of patients' rights has not yet been clearly articulated by the legislatures or by the courts. A recent white paper issued by the Annenberg Washington Program of Northwestern University entitled "The Patient Self-Determination Act—Implementation Issues and Opportunities" supports this conclusion, stating:

> The Act relies on state law governing withdrawal and withholding of life-support, yet the status of such law in most states is confused and conflicting * * *. By pragmatically avoiding an effort to declare a uniform, national law regarding end-of-life decisions, the Act relies instead on vague and widely varying interpretations of the law in 51 separate jurisdictions.

As a result, health care providers are placed in a tenuous and uncertain position with respect to their duty to notify patients, in writing, of their rights under the Patient Self-Determination Act. In short, in too many States health care providers face great difficulty in informing patients of their rights since the precise scope of those rights has not yet been defined by State law.

A second problem which continues to surface is a product of the degree to which our society is mobile. In many States, the law on patient self-determination is relatively clear. For example, many States have adopted model living will and/or durable power of attorney for health care forms which are recognized by health care providers throughout the State. Forms adopted on a State by State basis, however, vary from State to State; there is no model and universal national form.

As a result, there is in the words of the Annenberg white paper, a portability problem. That is, patients continue to present in local hospitals out-of-State forms to document their treatment wishes. In cases where the patient is competent, such an out-of-State form may not present an insurmountable obstacle since such patients may always sign the in-State form provided to them when they are admitted to the health care facility. In many cases, however, patients who have signed out-of-State forms have lost the capacity to sign new forms. A patient, for example, may be delivered to an emergency room in a coma.

In such cases, the health care provider is again placed in a highly tenuous position. Should the unfamiliar form be honored even though it differs from the form sanctioned by local law? Or should the patient's written wishes be disregarded due to legal technicality? If the patient's wishes are to be disregarded, who, then, is to make critical decisions concerning care? Such problems—which are not uncommon—could be avoided entirely by the creation of nationally recognized advance directive and durable power of attorney for health care forms.

Title II of this bill is a step towards resolving these and other problems which persist despite the enactment of the Patient Self Determination Act. It directs that an advisory committee be appointed by the Secretary of Health and Human Services to make recommendations on how to establish a uniform Federal law regarding end-of-life decisions and the development of model nationally recognized forms for advanced directives and durable powers of attorney for health care. This bill revises the concept of an advisory committee from prior legislation to make these determinations. While there is reluctance to establish such a committee, the advisory committee had functioned well in the past and is well suited to accomplish this purpose.

Uniformity and portability, however, are not the only issues left unresolved with the enactment of the Patient Self Determination Act. For example, the Annenberg white paper notes that despite the Patient Self Determination Act, patients still are reluctant to exercise their rights, and health care providers still are hesitant to honor those rights. Reinforcing the point, a special report in the New England Journal of Medicine, authored by a panel of 16 distinguished physicians, nurses, ethicists, attorneys, and educators, concluded that despite "widespread agreement that [written] directives can have many benefits * * * few Americans have executed advance directives."

Accordingly, the advisory committee also is required to examine a number of other issues related to the Act, such as, discrepancies in interpretation, education and training of health care professionals and patients, ethical considerations, and the timing for initiating discussions with patients regarding their rights to determine their course of treatment. Title II requires that the advisory committee's recommendations be submitted to the Secretary and to the Congress within 90 days from enactment.

In 1984, an article was published, based on data from the Health Care Financing Administration, which stated that in 1978, expenses incurred by Medicare beneficiaries in their last year of life accounted for 28 percent, or $16.3 billion, of total Medicare program expenses for that year. A follow-up study on data from 1985 was generally consistent with the 1978 data, concluding that 26.7 percent of Medicare expenditures were made during the beneficiary's last year of life. These figures have been widely quoted and I recognize they have been the subject of much debate on the inferences which can be drawn from the data, but I cite them to provide some indication on the range of costs involved.

No one should decide for any other person what should be done on life support systems. That is obviously a highly personal decision. However, it is sensible and in keeping with that individual determination to structure a system of living wills so that individuals can make an informed choice for themselves.

It is important that reliable data be developed to show the magnitude of expense being incurred unnecessarily for treatment which is not wanted. The Advisory Committee appointed under title II will be able to develop such precise data.

TITLE III—MATERNAL AND INFANT CARE COORDINATION

Mr. President, of the 4,100,000 American babies projected to be born in 1992, it is estimated that 7 percent, or 287,000, will be of low birth weight, multiplying their risk of death and disability. Although the infant mortality rate in the United States fell to an all-time low in 1989, an increasing percentage of babies are born of low birth weight. Rae Grad, Executive Director of the National Commission to Prevent Infant Mortality, put it this way, "* * * More babies are being born at risk and all we are doing is saving them with expensive technology."

These low birth weight children, weighing less than 5.5 pounds, account for 16 percent of all costs for initial hospitalization, rehospitalization, and special services up to age 35. The short and long-term costs of saving and caring for infants of low birth weight is staggering. A study issued by the Office of Technology Assessment in 1988, concluded that in excess of $8 billion was expended in 1987 for the care of

262,000 low birth weight infants than would have been spent on an equivalent number of babies born of normal weight. The long-term costs from birth to age 35 is more than twice as high. Costs for low birth weight is estimated at $50,558 compared to $20,033 for normal births.

The Department of Health and Human Services has estimated that by reducing the number of children born of low birth weight by just 2 percentage points, or 82,000 births, we could save between $1.1 billion and $2.5 billion per year.

The problem of low birth weight children is obviously more pronounced for the 1-pound babies which are about the size of a person's hand. It is a human tragedy for a child to be born weighing 16 ounces or 18 ounces or 20 ounces with the attendant problems which last a lifetime. In addition, it is a financial disaster. The costs of hospital care for a 1-pound baby can run as high as $150,000 before they may leave the hospital.

We know that in most instances prenatal care is effective in preventing low birth weight babies. Numerous studies have demonstrated that low birth weight is associated with inadequate prenatal care or lack of prenatal care. To improve pregnancy outcomes for women at risk of low birth weight, title III of the bill, entitled, the Maternal and Infant Care Coordination Act, authorizes the establishment of two innovative Federal grant programs.

The first program targets Federal resources to States to assist them in the development and implementation of coordinated comprehensive primary health care, social services, and health and nutrition education for women and children at high risk for low birth weight pregnancies. Participating States would be required to offer comprehensive services including: family planning counseling; pregnancy testing; prenatal care; delivery, intrapartum and postpartum care; pediatric care for infants, including in-home services for low birth weight babies; and social services, including outreach, home visits, child care, transportation, risk assessment, nutrition counseling, dental care, mental health services, substance abuse services, services relating to HIV infection, and prevention counseling.

States would coordinate to the maximum extent possible existing Federal and State resources, such as Medicaid, WIC and other maternal and child health programs. They also would be required to demonstrate that the major service providers, and community-based organizations involved in maternal and child health are involved in the program. Finally, the grantees would need to demonstrate that health promotion and outreach activities under the State program are targeted to women of childbearing age, particularly those at risk for having low birth weight babies.

Title III also authorizes the Secretary of Health and Human Services, in conjunction with the Secretaries of Education and Agriculture, to award grants to develop model health and nutrition education curricula for elementary and secondary schoolchildren. Grants would support public or nonprofit entities in the development of nutrition education materials designed to improve the health of school age children, promote healthy lifestyles and reduce the likelihood of teenage pregnancies.

It is important to emphasize efforts to provide better compensation for primary health care providers. In an age of specialization, the position of primary health care provider has become less attractive with the expected result that fewer physicians are interested in providing that service. To promote the societal benefits from such primary health care, we need to insure that the reform undertaken in implementing the new fee schedule for Medicare effectively addresses higher compensation for primary health care providers.

At the suggestion of Dr. C. Everett Koop, former Surgeon General of the United States, this bill provides for incentives for teenagers, young women 19 years of age and under, who become pregnant, who will receive $500.00 for enrolling in prenatal care consisting of five prenatal and one post-natal visit. Dr. Koop notes the French once paid pregnant women to have such prenatal and post-natal visits, resulting in materially improving the health of French babies. This legislation, again at the suggestions of Dr. Koop, will require teenagers to enroll in high school classes in parenting and prenatal care as a precondition for receiving the $500 incentive payment. While in an ideal world such an incentive payment should not be necessary, it would be effective in both humanitarian terms and cost effectiveness.

The issue of low birth weight babies has been of concern to me for many years leading to my introduction of S. 1873 in 1985.

TITLE IV—CONSUMER ACCESS TO NURSE PRACTITIONERS AND PHYSICAN ASSISTANT SERVICES

Mr. President, I have consulted with several nursing organizations to discuss our Nation's health care crisis and I have asked them to describe nursing's agenda for health care reform and their efforts for alleviating access and reducing health care costs. They have stated that a national health plan that provides the public with access to nurses would be extremely important in advancing the Nation's health, in increasing consumers' satisfaction with their care, and as a tool to reduce healthcare costs. Nurses have solutions to some of health care's most pressing problems. Indeed, current health care trends, such as an aging population, increasing prevalence of chronic diseases, the AIDS epidemic, increased reliance on medical technologies and the resultant problems from substance abuse, are increasing the strain on our national health resources which demand new solutions.

I believe that effective utilization of nurse practitioners [MP's] and physician assistants [PA's] has the potential to increase access to health care, to increase efficiency in health care, and to provide cost-savings. In a 1983 review of the literature on the impact of nurse practitioners, the American Nurses' Association [ANA] found consistently good conclusions about their cost-effectiveness. Other studies from the decade support ANA's report.

For example, in a report comparing direct-care providers, the Federal Government's Office of Technology Assessment [OTA] recommends extending reimbursement to NP's, PA's and certified-nurse midwives [CNM's] and believes that in some settings this could benefit the health status of segments of the population currently not receiving appropriate care and that the long term effects could be a decrease in total costs. Although OTA did not stipulate the exact savings for the United States, they reported on the potential health care savings for Canada. OTA cites findings in 1980 by Canadian researchers' that the utilization of NP's and PA's could result in 10–15 percent savings for all medical costs—or from $300 million to $450 million—or between 16–24 percent of the total costs for ambulatory care. While no comparative studies are available in the United States, it is clear that the savings from utilization of these providers could amount to billions of dollars.

A more specific example of cost-effective quality nursing care is a study conducted by a group of University of Pennsylvania, School of Nursing researchers—Brooten, et al., 1986—dealing with early discharge of very low birth weight infants, with home follow-up by nurse specialists. In this study, very low birth weight infants were discharged from the hospital early and received home follow-up services from a master's-prepared perinatal nurse specialist. The group of infants was discharged a mean of 11 days earlier, 200 grams less in weight, and 2 weeks younger than the control group. There was a mean saving of $18,560 per infant over conventional care.

In an era in which cost, quality and access present increasingly difficult problems, NP's, PA's and CNM's are an extremely valuable and untapped resource. In their 1992 report to Congress, the Physician Payment Review Commission stresses the importance of NP's, PA's and CNM's in meeting the primary health care needs of underserved communities. Primary health care is a way of delivering health care.

It includes identification, management, and referral of health problems, as well as promotion of health-maintaining behavior and prevention of illness.

These professions evolved in response to shortages of primary health care in certain parts of the country. To encourage retention of these health care providers and potentially attract more of them to shortage areas, the Commission recommended in their 1991 report to Congress that the Medicare bonus payment be applied to the services of these providers in both urban and rural health care settings. This recommendation has been incorporated into my legislation. As high quality, cost-effective health care providers these professionals are prepared to make a vital contribution to addressing our Nation's access and cost problems. Accordingly, title IV of the bill provides consumers access to services by nurse practitioners, clinical nurse specialists, certified nurse midwives and physician assistants. These non-physician providers would receive direct reimbursement through the Medicare and Medicaid programs.

TITLE V—MEDICARE PREFERRED PROVIDER DEMONSTRATION PROJECTS

In October of 1990, I visited a Pennsylvania health care company. After touring the facility, I discussed with company officials their methods of containing costs. They reported that their experience had taught them that the key to improving quality and controlling health care costs is the management of specialty care. Such services are expensive, are associated with significant complications, show considerable small area variation, and frequently fail to meet appropriateness of care criteria.

Successful management of these costs have yielded savings of an estimated 20 percent. Furthermore, they reported their cost savings strategy could be replicated and applied to federally supported programs, such as Medicare and Medicaid. A suggestion was made to initiate a Medicare demonstration program to test the efficacy of a coordinated care network for Medicare beneficiaries which manages the use of specialty care.

I subsequently have met with other providers from Pennsylvania who have adopted and found success in managed care approaches to containing health care costs and improving the quality of care. On several occasions, I have raised this matter with Secretary Sullivan with the view that the Department undertake a pilot program to test this approach with Medicare beneficiaries. On October 31, 1990, I sent a letter to the Secretary suggesting this approach be tested as a pilot program. Again, on April 8, 1991, I wrote the Secretary raising the matter of undertaking a model Medicare coordinated care demonstration program.

The pilot program also was raised by me with the Secretary during a January 23, 1992 meeting regarding health care reform and during the Secretary's appearance before the Labor, HHS and Education Appropriations Subcommittee on May 12th of this year. While the Secretary has expressed support for the concept, it has been over 18 months, and no demonstration has been undertaken by the Department.

In the meantime, Medicare expenditures are increasing at an alarming rate. Despite the introduction of the hospital prospective payment system, Medicare spending will have grown from $34 billion in 1980 to an estimated $131 billion by 1993. Without reform, Medicare will grow at an average rate of 12 percent per year. It is estimated that Medicare will exceed 27 percent of the Federal budget by the year 2025.

Coordinated care plans have shown promise for providing the management necessary to control the volume and intensity of specialty services. A number of studies have reported cost savings with the use of managed care. Savings have ranged up to 30 percent contrasted with fee-for-service plans. Assuming cost reductions of just 10 percent, would yield a decrease in the projected expenditures for the Medicare program in 1993 of $13 billion. A 20 percent reduction would yield savings of twice the amount, or $26 billion.

The Medicare program, however, has not seen the rapid expansion of managed care found in the private sector. Only 7 percent, or 2.1 million, of Medicare beneficiaries participate in Medicare HMOs. This contrasts with 27 percent in the private sector.

The reasons for the low participation rate are not clear. What is needed is a series of projects to demonstrate a Medicare managed care program which effectively recruits participants and provides cost effective quality care. These demonstration projects would combine the new Medicare part B fee schedule with a specialty provider network with three managed care components; the monitoring of physician and non-physician provider performance; the provision of individual incentives for quality improvement and the coordination patient care; and health promotion activities.

Accordingly, title V of the bill directs the Secretary of Health and Human Services to institute up to ten pilot projects to test the efficacy of establishing these coordinated networks of primary and specialty care providers. The network of providers would be selected and monitored based on quality and appropriateness of care measures.

This approach has successfully been implemented in the private sector. I am convinced these management principles can be applied to medicare beneficiaries and can both control Medicare costs and improve the quality of care delivered to Medicare patients.

TITLE VI—COST CONTAINMENT

FEDERAL INITIATIVE ON DRUG DEVELOPMENT

In fiscal year 1990, the National Institutes of Health had approved, but was not able to fund over $110 million in major new clinical trials. This underfunding of clinical trials occurred in spite of the social and economic costs of the leading diseases. For example, Alzheimer's disease has societal costs of $88 billion compared to $230 million in federally funded research; heart disease has societal costs of $94 billion compared to $704 million in federally funded research; cancer has societal costs of $72 billion compared to $1.7 billion in federally funded research; AIDS has societal costs of $66 billion compared to $1.1 billion in federally funded research.

Title VI specifically authorizes a program at the National Institutes of Health to expand support for clinical trials on promising new drugs and disease treatments. Priority will be given to the most costly diseases and those impacting the most number of people.

MEDICAL EFFECTIVENESS RESEARCH AND MEDICAL PRACTICE GUIDELINES

Rapid development and diffusion of technologies is a component of our high-tech health care system. Our ability to produce more health care devices and procedures is going beyond our knowledge of when and how they should be used. There is also extensive variation in our physician's practice pattern as well as the resultant health care outcomes. The problem of increasing technology and proliferation of high-tech services within our health care system contributes to the high and rapidly rising health care costs. There exists a potential that medical practice research may address these concerns and reduce health care costs and improve quality.

Earlier this year, Dr. Koop authored an article which appeared in the Washington Post regarding the need for fundamental reform of the health care system. In this article, he stated:

> The scientific basis of medicine is much weaker than most patients or even physicians realize, and this leads to treatment based on uncertainty. . . . We need to undertake a systematic well-funded program of 'outcomes research' to enable patients and physicians to know the outcomes of all medical treatments. If we allocated about one-fourth of a cent of each insurance dollar to fund outcomes research, we would achieve lower costs and higher quality health care for everyone.

Accordingly, title VI of the bill establishes a fund for medical effectiveness research. The fund will be financed by implementing a .001 percent—one-tenth of one cent—surcharge on all health insurance premiums. This would dramatically increase the level of effort in this country to develop a better understanding of effective medical treatment, including establishing medical practice guidelines on the conditions for which there is found to be a

wide variation in current medical practice. These systematically developed guidelines will assist the practitioner and the patient in decisions about appropriate health care.

REPORT ON HEALTH CARE COST CONTROL TARGETS

On November 19 of last year, I participated in a joint hearing of the Special Committee on Aging and the Government Affairs Committee regarding strategies for cutting the cost of health care. Witnesses at the hearing testified concerning the fact that health care expenditures in the United States continues to grow at an alarming rate. The percent of our country's gross national product devoted to health care grew from 7.3 percent in 1970 to 12.3 percent in 1990. Projections for the year 2000 show that share rising to over 16 percent.

In contrast, other industrialized nations have had some success at limiting the growth in health care expenditures. Some have done so by establishing caps and targets for health care spending and for the payment of services. A General Accounting Office report, released on November 15, 1991, found that France, Germany, and Japan have implemented health care spending targets and caps and have successfully lowered the increase in health care costs. In Germany, for example, the report found that spending caps had reduced expenditures by as much as 17 percent below what would have been spent on physician care without the caps.

To explore the feasibility of implementing a similar strategy in this country, title VI directs the Secretary of Health and Human Services to issue a report to the Congress regarding establishing national spending targets for health care and health care services as a means of controlling health care costs. The report is to be prepared after the Secretary's consideration of the recommendations of the Health Care Cost Control Advisory Committee established in the bill. The advisory committee is to be comprised of representatives from the provider communities, organized labor, business, academia and private insurers.

CONCLUSION

This bill, in conjunction with S. 1936 which I co-sponsored as part of the Chafee Task Force and S. 1122 and S. 1995 which I introduced, contains the framework for legislation to provide affordable health care for all Americans. I am opposed to rationing of health care. I do not want it for myself, for my family, or for America. The essential question is whether we have essential resources—health care project illness, hospitals, pharmaceutical products, et cetera—to provide medical care for all Americans. I am confident that we do.

I welcome comments and suggestions on the provisions of this bill. I am fully prepared to consider modifications warranted by the facts, and I look forward to hearings and debate on the concepts and proposals herein which will lead to final legislation.

In my judgment, we should not scrap, but build on our current health delivery system. I believe that we can provide care for the 37 million Americans who are now not covered and reduce the cost of health care for those who are now covered within the $738 billion a year which is now being expended for health coverage.

The provisions of S.1936 would provide tax incentives and insurance reform to increase significantly the number of Americans covered by health insurance. The provisions of S.1122, S.1995 and this bill will improve the access to the quality of medical care while establishing a structure for significant cost containment.

While it is not realistic to quantify with precision the savings which can be obtained, a conservative estimate would be 30 percent of present medical costs or approximately $220 billion could be saved through managed health care, administrative cost reduction, expansion of services by nurse practioners and physician assistants, preventive neo-natal care for lowbirthweight babies, reduction in terminal care costs, and a reduction in loss due to fraud. Significant savings are possible from the 25 percent now allocated to administer costs. While there is some overlap with managed health care on administrative savings, further savings from the managed care approach should be possible where experience has projected savings in excess of 20 percent through such management. In addition to the weightier humane considerations, savings are available from programs for low weight babies and terminal health costs, with the precise figures determinable only through experience.

With the savings projected in this bill, I believe we can provide comprehensive affordable health care to all Americans. If experience shows that cannot be done, I am prepared to extend Medicare and Medicaid to those who cannot be covered within these projected savings.

It is obvious that the total answer to the health care issue will not be achieved immediately or easily but the time has come—if not already passed—for concerted action on this subject. In an effort to move the legislative process ahead on the health care issue, I introduced an amendment to the Energy Bill on July 29, 1992, combining S. 1995 with some parts of S. 1936. When the distinguished majority leader argued that the amendment should not be added to the Energy bill, I agreed to withdraw the amendment if the majority leader would make a commitment to bring up health care on a date certain this year. When the majority leader declined, stating that complexities of schedule prevented such a commitment, I noted that he had established a fixed date to take up product liability legislation on September 8, 1992. I then noted that the health care issue was at least as important as product liability legislation.

There are many legislative proposals on health care pending in the U.S. Senate. It is my hope that the distinguished majority leader would announce a date this year, preferably not later than early September, when the Senate would take up the issue of health care.

I understand and acknowledge that there are many controversial issues presented in this bill and I am open to suggestions on possible modifications. There is a wealth of thought in the many legislative proposals which are now pending in the House and Senate. I think back to 1990 when the Congress enacted the Clean Air Act when many stated that it could not be done. When that legislation was pending on the floor, there were many off-the-floor negotiations resulting in a comprehensive bill to take 10 million tons of sulfur dioxide out of the air and provide important reforms for industrial and automotive pollution.

The problems on health care pose a high national priority and I urge the majority leader to bring this subject to the floor promptly so that the Senate may consider this bill along with S. 1122, S. 1936, S. 1995 and other pending legislative proposals in order to move ahead to provide comprehensive, affordable health care for all Americans.

I ask unanimous consent that the text of the bill be printed in the RECORD. Thank you, Mr. President.

There being no objection, the bill was ordered to be printed in the Record, as follows:

S. 3176

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Health Care Affordability and Quality Improvement Act of 1992".

TITLE I—DISCLOSURE OF CERTAIN INFORMATION TO BENEFICIARIES UNDER THE MEDICARE AND MEDICAID PROGRAMS.

SEC. 101. REGULATIONS REQUIRING DISCLOSURE OF CERTAIN INFORMATION TO BENEFICIARIES UNDER THE MEDICARE AND MEDICAID PROGRAMS.

Part A of title XI of the Social Security Act (42 U.S.C. 1301 et seq.) is amended by adding at the end the following new section:

"DISCLOSURE OF CERTAIN INFORMATION TO BENEFICIARIES UNDER THE MEDICARE AND MEDICAID PROGRAMS

"SEC. 1144. (a) ANNUAL REPORTS.—

"(1) INSTITUTIONAL HEALTH CARE PROVIDERS.—

"(A) IN GENERAL.—The Secretary shall issue regulations requiring that each institutional health care provider receiving payment for services provided under title XVIII

or XIX shall make an annual report available to the recipients of services under such title.

"(B) CONTENTS OF REPORT.—The annual report referred to in subparagraph (A) shall include—

"(i) mortality rates relating to services provided to individuals, including incidence and outcomes of surgical and other invasive procedures;

"(ii) nosocomial infection rates;

"(iii) a list of routine preoperative tests and other frequently performed medical tests, including blood tests, chest x-rays, magnetic resonance imaging, computerized axial tomography, urinalysis, and heart catherizations, and the cost of such tests;

"(iv) the number and types of malpractice claims against the provider decided or settled for the year;

"(v) a list of the names and addresses of the members of the provider's board of trustees, the name and address of the provider's chief administrator, chief medical officer, and chief nursing administrator; and

"(vi) such other information as the Secretary shall require.

"(2) NONINSTITUTIONAL HEALTH CARE PROVIDERS.—

"(A) IN GENERAL.—The Secretary shall issue regulations requiring that each noninstitutional provider receiving payment for services provided under title XVIII or XIX shall make an annual report available to the recipients of services under such title.

"(B) CONTENTS OF REPORT.—The report referred to in subparagraph (A) shall include—

"(i) information regarding the provider's education, experience, qualifications, board certification, and license to provide health care services, including a list of the States in which such provider is licensed and any limitations on such provider's license;

"(ii) any disciplinary actions taken against the provider by any health care facility, State medical agency, or medical organization;

"(iii) any malpractice action against the provider decided or settled;

"(iv) a disclosure of any ownership interest the provider may have in any health care facility, laboratory, or health care supply company; and

"(v) such other information as the Secretary shall require.

"(b) DISCLOSURE OF INFORMATION REGARDING HEALTH CARE PROCEDURES AND FORMS.—

"(1) INFORMATION REGARDING HEALTH CARE PROCEDURES AND FORMS.—The Secretary shall issue regulations requiring that each institutional and noninstitutional health care provider receiving payment for services under title XVIII or XIX shall make available any forms required in connection with the receipt of services under such title which consist of any diagnostic, surgical, or other invasive procedure, prior to the performance of such procedure.

"(2) INFORMATION PROVIDED BEFORE PERFORMANCE OF PROCEDURE.—The Secretary shall issue regulations requiring each institutional and noninstitutional health care provider receiving payment for services provided under title XVIII or XIX to disclose to any individual receiving any surgical, palliative, or other health care procedure or any drug therapy or other treatment, the following information prior to the performance of such procedure or treatment:

"(A) The nature of the procedure or treatment.

"(B) A description of the procedure or treatment.

"(C) The risk and benefits associated with the procedure or treatment.

"(D) The success rate for the procedure or treatment generally, and for the provider.

"(E) The provider's cost range for the procedure or treatment.

"(F) Any alternative treatment which may be available to such individual.

"(G) Any known side effects of any medications required in connection with the procedure or treatment.

"(H) The interactive effect of the complete regimen of medications associated with the procedure.

"(I) The availability of the information under this subsection and under subsections (a) and (c).

"(J) Such other information as the Secretary shall require.

"(3) EMERGENCIES.—The Secretary shall issue regulations with respect to the waiver of any requirement established under paragraphs (1) and (2) in a case where emergency health care is needed.

"(c) PATIENT'S RIGHT TO REFUSE INFORMATION AND TREATMENT.—The Secretary shall issue regulations requiring each institutional and noninstitutional health care provider receiving payment for services provided under title XVIII or XIX to inform any individual receiving services under such title of such individual's right—

"(1) to refuse any information which is available to such individual under the regulations described in subsections (a) and (b);

"(2) to refuse any procedure or treatment;

"(3) to refuse attendance by any such provider; or

"(4) to leave the premises of any such provider.

"(d) DEFINITIONS.—As used in this section—

"(1) INSTITUTIONAL HEALTH CARE PROVIDER.—The term 'institutional health care provider' means any hospital, clinic, skilled nursing facility, comprehensive outpatient rehabilitation facility, home health agency, hospice program, or other facility receiving payment for services provided under title XVIII or XIX, as determined by the Secretary.

"(2) NONINSTITUTIONAL HEALTH CARE PROVIDER.—The term 'noninstitutional health care provider' means any physician, physician assistant, nurse practitioner, certified nurse midwife, certified registered nurse anesthetist, or other individual receiving payment for services provided under title XVIII or XIX, as determined by the Secretary.

"(e) COMPLIANCE.—

"(1) PENALTIES FOR FAILURE TO COMPLY.—The Secretary shall issue regulations establishing appropriate penalties for any failure to comply with the regulations issued under this section.

"(2) WAIVER OF COMPLIANCE.—The Secretary may waive any of the requirements under the regulations issued under this section if a health care provider demonstrates that such requirements will result in an undue burden on such provider.".

SEC. 102. OUTREACH ACTIVITIES.

(a) MEDICARE PROGRAM.—

(1) GRANTS TO NONPROFIT PRIVATE ENTITIES FOR OUTREACH ACTIVITIES.—

(A) AUTHORITY.—The Secretary of Health and Human Services (hereafter in this paragraph referred to as the "Secretary"), is authorized to award grants, on a competitive basis, to nonprofit private entities to enable such entities to develop outreach activities to inform beneficiaries under title XVIII of the Social Security Act of the information available to such beneficiaries pursuant to regulations issued by the Secretary under section 1144 of the Social Security Act.

(B) APPLICATION.—To be eligible to receive a grant under subparagraph (A), an entity shall prepare and submit to the Secretary an application at such time, in such manner, and containing such information as the Secretary may require.

(C) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section, $5,000,000 for fiscal year 1993, $5,000,000 for fiscal year 1994, and $5,000,000 for fiscal year 1995.

(2) OUTREACH THROUGH NOTICE OF MEDICARE BENEFITS.—Section 1804 of the Social Security Act (42 U.S.C. 1395b–2) is amended—

(A) in paragraph (2), by striking ", and" and inserting a comma,

(B) in paragraph (3), by striking the period and inserting ", and",

(C) by inserting after paragraph (3), the following new paragraph:

"(4) a description of the information available to beneficiaries under this title pursuant to regulations issued by the Secretary under section 1144.".

(b) MEDICAID PROGRAM.—

(1) IN GENERAL.—Section 1902(a) of the Social Security Act (42 U.S.C. 1396a(a)) is amended—

(A) by striking the period at the end of paragraph (58) (as added by section 4751(a)(1)(C) of the Omnibus Budget Reconciliation Act of 1990) and inserting a semicolon,

(B) by redesignating the second paragraph (58) (as added by section 4752(c)(1)(C) of the Omnibus Budget Reconciliation Act of 1990) as paragraph (59) and by striking the period at the end and inserting "; and", and

(C) by adding at the end the following new paragraph:

"(60) provide for an outreach program informing individuals who receive medical assistance under this title of the information available to such individuals pursuant to regulations issued by the Secretary under section 1144.".

(2) EFFECTIVE DATE.—

(A) IN GENERAL.—Paragraph (1) shall apply to calendar quarters beginning on January 1, 1993.

(B) GENERAL RULE.—In the case of a State which the Secretary determines requires State legislation (other than legislation authorizing or appropriating funds) in order to comply with paragraph (1), the State shall not be regarded as failing to comply with such paragraph solely on the basis of its failure to meet the requirements of such paragraph before the first day of the first calendar quarter beginning after the close of the first regular session of the State legislature that begins after the date of enactment of this Act. For purposes of the previous sentence, in the case of a State that has a 2-year legislative session, each year of such session shall be deemed to be a separate regular session of the State legislature.

TITLE II—ADVISORY COMMITTEE ON PATIENT SELF-DETERMINATION.

SEC. 201. ADVISORY COMMITTEE ON PATIENT SELF-DETERMINATION.

(a) IN GENERAL.—The Secretary shall establish an advisory committee or committees (hereafter referred to in this section as the "Committee") for the purpose of issuing recommendations concerning medical, legal, ethical, social, and educational issues related to the enactment and implementation of section 1866(f) of the Social Security Act and section 1902(w) of such Act.

(b) COMPOSITION.—The Committee shall be composed of individuals appointed by the Secretary representing—

(1) consumers;

(2) aging advocacy groups;

(3) hospitals;

(4) physicians;
(5) nonphysician providers;
(6) organizations delivering community-based health care;
(7) academics with expertise in legal, ethical, social, and religious concerns related to final care;
(8) nursing facilities; and
(9) executive branch officials from agencies with expertise related to this title.

(c) ISSUES TO BE ADDRESSED.—Issues to be addressed by the Committee shall include—
(1) issues relating to the establishment of a uniform Federal law governing patients' rights to consent to, or decline, medical treatment;
(2) issues relating to the development of model nationally-recognized advance directive and durable power of attorney forms for health care;
(3) issues pertaining to the education and training of health care professionals concerning patients' self-determination rights;
(4) issues pertaining to health care professionals' duties with respect to patients' rights, and health care professionals' roles in identifying, assessing, and presenting for patient consideration medically indicated treatment options;
(5) issues relating to the development of data concerning the magnitude of expense being incurred for medical treatment which is not wanted by the patients who receive such treatment; and
(6) such other issues as the Secretary may identify.

(d) REPORT.—Within 90 days of the date of the enactment of this section, the Committee shall submit a report to the Secretary and the Congress containing the Committee's findings and conclusions with respect to the matters described in subsection (c).

(e) COMPENSATION.—
(1) IN GENERAL.—Members of the Committee shall serve without compensation.
(2) EXPENSES REIMBURSED.—While away from their homes or regular places of business on the business of the Committee, the members of the Committee may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of title 5, United States Code, for persons employed intermittently in Government service.
(3) SUPPORT.—The Secretary shall supply such necessary office facilities, office supplies, support services, and related expenses as necessary to carry out the functions of the Committee.
(4) APPLICATION OF THE ACT.—The provisions of the Federal Advisory Committee Act (5 U.S.C. App.) shall not apply with respect to the Committee.

TITLE III—MATERNAL AND INFANT CARE COORDINATION

SEC. 301. PURPOSE.

It is the purpose of this title to assist States in the development and implementation of coordinated, multidisciplinary, and comprehensive primary health care and social services, and health and nutrition education programs, designed to improve maternal and child health.

SEC. 302. GRANTS FOR IMPLEMENTATION OF PROGRAMS.

(a) AUTHORITY.—The Secretary of Health and Human Services (hereafter referred to in this title as the "Secretary") is authorized to award grants to States to enable such States to plan and implement coordinated, multidisciplinary, and comprehensive primary health care and social service programs targeted to pregnant women and infants.

(b) ELIGIBILITY.—To be eligible to receive a grant under this section, a State shall—
(1) prepare and submit to the Secretary an application at such time, in such manner, and containing such information as the Secretary may require;
(2) provide assurances that under the program established with amounts received under a grant, individuals will have access (without any barriers) to comprehensive family planning counseling, pregnancy testing, prenatal care, delivery, intrapartum and postpartum care, pediatric care for infants, and social services as appropriate, including outreach activities, home visits, child care, transportation, risk assessment, nutrition counseling, dental care, mental health services, substance abuse services, services relating to HIV infection, and prevention counseling;
(3) provide assurances that under the program individuals will have access, without any barriers, to the full range of pediatric services provided by pediatric nurse practitioners and clinical nurse specialists, including in-home services for low birth weight babies;
(4) as part of the State application, submit a plan for providing incentive payments of up to $500 to pregnant women who—
(A) have not attained age 20;
(B) are at risk of having low birth weight babies;
(C) agree to attend not less than 5 prenatal visits and 1 post natal visit; and
(D) agree to attend a requisite number of prenatal care and parenting classes, as determined by the State;
(5) as part of the State application, submit a plan for the coordination and maximization of existing and proposed Federal and State resources, including amounts provided under the medicaid program under title XIX of the Social Security Act, the special supplemental food program under section 17 of the Child Nutrition Act of 1966, family planning programs, substance abuse programs, State maternal and child health programs funded under title V of the Social Security Act, community and migrant health center programs under the Public Health Service Act, and other publicly, or where practicable, privately supported programs;
(6) demonstrate that the major service providers to be involved, including private nonprofit entities committed to improving maternal and infant health, are committed to and involved in the program to be funded with amounts received under the grant;
(7) with respect to States with high infant mortality rates among minority populations, demonstrate the involvement of major health, multiservice, professional, or civic group representatives of such minority groups in the planning and implementation of the State program; and
(8) demonstrate that health promotion and outreach activities under the State program are targeted to women of childbearing age, particularly those at risk for having low birth weight babies.

(c) TERM OF GRANT.—A grant awarded under this section shall be for a period of 5 years.

(d) USE OF AMOUNTS.—Amounts received by a State under a grant awarded under this section shall be used to establish a State program to provide coordinated, multidisciplinary, and comprehensive primary health care and social services, and health and nutrition education program services, that are designed to improve maternal and child health.

(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section, $100,000,000 for fiscal year 1993, $300,000,000 for fiscal year 1994, and $500,000,000 for each of the fiscal years 1995 through 1997.

SEC. 303. MODEL HEALTH AND NUTRITION EDUCATION CURRICULA.

(a) AUTHORITY.—The Secretary, in conjunction with the Secretary of Education and the Secretary of Agriculture, is authorized to award grants, on a competitive basis, to public or nonprofit private entities to enable such entities to develop model health and nutrition education curricula for children in grades kindergarten through twelfth.

(b) APPLICATION.—To be eligible to receive a grant under subsection (a), an entity shall prepare and submit to the Secretary an application at such time, in such manner, and containing such information as the Secretary may require.

(c) CURRICULA.—Curricula developed under subsection (a) should be consistent with the goals of *Healthy People 2000: National Health Promotion and Disease Prevention Objectives*, published by the Department of Health and Human Services in September 1990, and shall address the cultural and lifestyle realities of racial and ethnic minority populations.

(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section, $10,000,000 for fiscal year 1993.

TITLE IV—IMPROVED ACCESS TO NURSING AND PHYSICIAN ASSISTANT SERVICES

SEC. 401. INCREASING PAYMENTS TO CERTAIN PROVIDERS UNDER THE MEDICARE PROGRAM.

(a) INCREASE IN PAYMENTS TO NURSE PRACTITIONERS, CLINICAL NURSE SPECIALISTS, CERTIFIED NURSE MIDWIVES, AND PHYSICIAN ASSISTANTS.—
(1) IN GENERAL.—Section 1833(a)(1) of the Social Security Act (42 U.S.C. 13951(a)(1)) is amended—
(i) in subparagraph (K), by striking "80 percent" and all that follows through "physician)" and inserting "97 percent of the fee schedule amount provided under section 1848 for the same service performed by a physician";
(ii) by redesignating subparagraph (M) the second place it appears and subparagraph (N), as subparagraphs (N) and (O), respectively; and
(iii) by amending subparagraph (N), as redesignated, to read as follows: "(N) with respect to services described in section 1861(s)(2)(K) (relating to services provided by a nurse practitioner, clinical nurse specialist, or physician assistant) the amounts paid shall be 97 percent of the fee schedule amount provided under section 1848 for the same service performed by a physician,"

(2) NURSE PRACTITIONERS AND PHYSICIAN ASSISTANTS.—Section 1842(b)(12) of such Act (42 U.S.C. 1395u(b)(12)) is amended to read as follows:

"(12) With respect to services described in clauses (i), (ii), or (iv) of section 1861(s)(2)(K) (relating to physician assistants and nurse practitioners)—

"(A) payment under this part may only be made on an assignment-related basis; and

"(B) the prevailing charges determined under paragraph (3) shall not exceed—

"(i) in the case of services performed as an assistant at surgery, 97 percent of the amount that would otherwise be recognized if performed by a physician who is serving as an assistant at surgery, or

"(ii) in other cases, 97 percent of the fee schedule amount specified in section 1848 for such services performed by physicians who are not specialists.".

(3) DIRECT PAYMENT FOR ALL NURSE PRACTITIONERS OR CLINICAL NURSE SPECIALISTS.—Section 1832(a)(2)(B)(iv) of such Act (42 U.S.C. 1395k(a)(2)(B)(iv)) is amended by striking "provided in a rural area (as defined in section 1886(d)(2)(D))".

(4) REMOVAL OF RESTRICTIONS ON SETTINGS.—Section 1861(s)(2)(K) of such Act (42 U.S.C. 1395x(s)(2)(K)) is amended—

(A) in clause (i), by striking "(I) in a hospital" and all that follows through "professional shortage area,";

(B) in clause (ii), by striking "in a skilled" and all that follows through "1919(a)"; and

(C) in clause (iii), by striking "in a rural" and all that follows through "(d)(2)(D))".

(b) BONUS PAYMENT FOR SERVICES PROVIDED IN HEALTH PROFESSIONAL SHORTAGE AREAS.—Section 1833(m) of such Act (42 U.S.C. 1395l(m)) is amended—

(1) by inserting "(1)" after "(m)"; and

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

"(2) In the case of services of a nurse practitioner, clinical nurse specialist, physician assistant, or certified nurse midwife furnished to an individual described in paragraph (1) in an area that is a health professional shortage area as described in such paragraph, in addition to the amount otherwise paid under this part, there shall also be paid to such service provider (or to an employer in the cases described in clause (C) of section 1842(b)(6)) (on a monthly or quarterly basis) from the Federal Supplementary Medical Trust Fund an amount equal to 10 percent of the payment amount for such services under this part.".

SEC. 402. REQUIRING COVERAGE OF CERTAIN PROVIDERS UNDER THE MEDICAID PROGRAM.

Section 1905(a) of such Act (42 U.S.C. 1396d(a)) is amended—

(1) in paragraph (21), by striking "; and" and inserting a semicolon;

(2) in paragraph (24), by striking the period at the end and inserting a semicolon;

(3) by redesignating paragraphs (22), (23), and (24) as paragraphs (25), (22), and (23), respectively;

(4) by inserting after paragraph (23) the following new paragraph:

"(24) services furnished by a physician assistant, nurse practitioner, and clinical nurse specialist (as defined in section 1861(aa)(5)); and";

(5) by striking the semicolon at the end of paragraph (25), as redesignated, and inserting a period; and

(6) by transferring and inserting paragraph (25), as redesignated, after paragraph (24).

TITLE V—MEDICARE PREFERRED PROVIDER DEMONSTRATION PROJECTS

SEC. 501. ESTABLISHMENT OF MEDICARE PRIMARY AND SPECIALTY PREFERRED PROVIDER ORGANIZATION DEMONSTRATION PROJECTS.

(a) IN GENERAL.—Not later than 180 days after the date of enactment of this Act the Secretary of Health and Human Services (hereafter in this section referred to as the "Secretary") shall provide for up to 10 demonstration projects to test the effectiveness of providing payment under the medicare program under title XVIII of the Social Security Act for primary and specialty procedures and services (as determined appropriate by the Secretary) furnished by preferred provider organizations. The demonstration projects provided for under this section by the Secretary shall—

(1) test the cost-effectiveness of preferred provider organizations furnishing primary and specialty services in controlling the volume of such services performed or ordered by physicians, and nonphysician providers such as nurse practitioners, clinical nurse specialists, certified nurse midwives and physician assistants, for which payment is made under title XVIII of the Social Security Act;

(2) gather information on factors which may encourage medicare beneficiaries to participate in a preferred provider organizational network;

(3) examine the efficacy of permanently establishing managed care networks of primary and specialty service providers; and

(4) examine the factors necessary to increase the quality and efficiency of primary and specialty services furnished by preferred provider networks in order to realize increased savings under the medicare program and to increase medicare beneficiary participation in such networks.

(b) WAIVER OF MEDICARE REQUIREMENTS.—The Secretary may waive such requirements of title XVIII of the Social Security Act as the Secretary determines necessary in conducting demonstration programs under this section, including—

(1) coinsurance requirements;

(2) provider payment arrangements;

(3) beneficiary deductibles; and

(4) reimbursement for nonphysician providers.

(c) DURATION OF PROJECTS.—The demonstration projects provided for under this section shall be conducted for a period not to exceed 3 years from the date of enactment of this Act.

(d) REPORT.—Not later than 180 days after the date of expiration of the demonstration projects conducted under this section the Secretary shall report to the Congress on the results of the demonstration projects including recommendations for modifications in the medicare program to increase the utilization of preferred provider organizations in providing primary and specialty services under such program.

TITLE VI—COST CONTAINMENT

SEC. 601. NEW DRUG CLINICAL TRIALS PROGRAM.

Part B of title IV of the Public Health Service Act (42 U.S.C. 284 et seq.) is amended by adding at the end thereof the following new section:

"SEC. 409. NEW DRUG CLINICAL TRIALS PROGRAM.

"(a) IN GENERAL.—The Director of the National Institutes of Health is authorized to establish and implement a program for the conduct of clinical trials with respect to new drugs and disease treatments determined to be promising by the Director. In determining the drugs and disease treatments that are to be the subject of such clinical trials, the Director shall give priority to those drugs and disease treatments targeted towards the diseases determined—

"(1) to be the most costly to treat;

"(2) to have the highest mortality; or

"(3) to affect the greatest number of individuals.

"(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section, $120,000,000 for fiscal year 1993, and such sums as may be necessary in each of the fiscal years 1994 through 1997.".

SEC. 602. MEDICAL TREATMENT EFFECTIVENESS.

(a) RESEARCH ON COST-EFFECTIVE METHODS OF HEALTH CARE.—Section 926 of the Public Health Service Act (42 U.S.C. 299c-5) is amended—

(1) in subsection (a), by striking out "and $70,000,000 for fiscal year 1992" and inserting in lieu thereof "$70,000,000 for fiscal year 1992, and such sums as may be necessary for each of the fiscal years 1993 through 1996"; and

(2) by adding at the end thereof the following new subsection:

"(c) USE OF ADDITIONAL APPROPRIATIONS.—Within amounts appropriated under subsection (a) for each of the fiscal years 1993 through 1996 that are in excess of the amounts appropriated under such subsection for fiscal year 1992, the Secretary shall give priority to expanding research conducted to determine the most cost-effective methods of health care and for developing and disseminating new practice guidelines related to such methods. In utilizing such amounts, the Secretary shall give priority to diseases and disorders that the Secretary determines are the most costly to the United States and evidence a wide variation in current medical practice.".

(b) RESEARCH ON MEDICAL TREATMENT OUTCOMES.—

(1) IMPOSITION OF TAX ON HEALTH INSURANCE POLICIES.—

(A) IN GENERAL.—Chapter 36 of the Internal Revenue Code of 1986 (relating to certain other excise taxes) is amended by adding at the end thereof the following new subchapter:

"Subchapter G—Tax on Health Insurance Policies

"Sec. 4501. Imposition of tax.

"Sec. 4502. Liability for tax.

"SEC. 4501. IMPOSITION OF TAX.

"(a) GENERAL RULE.—There is hereby imposed a tax equal to .001 cent on each dollar, or fractional part thereof, of the premium paid on a policy of health insurance.

"(b) DEFINITION.—For purposes of subsection (a), the term 'policy of health insurance' means any policy or other instrument by whatever name called whereby a contract of insurance is made, continued, or renewed with respect to the health of an individual or group of individuals.

"SEC. 4502. LIABILITY FOR TAX.

The tax imposed by this subchapter 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 tax, or for whose use or benefit the same are made, signed, issued or sold. The United States or any agency or instrumentality thereof shall not be liable for the tax".

(B) CONFORMING AMENDMENT.—The table of subchapters for chapter 36 of the Internal Revenue Code of 1986 is amended by adding at the end thereof the following new item:

"SUBCHAPTER G. TAX ON HEALTH INSURANCE POLICIES.".

(2) ESTABLISHMENT OF TRUST FUND.—

(A) IN GENERAL.—Subchapter A of chapter 98 of the Internal Revenue Code of 1986 (relating to trust fund code) is amended by adding at the end thereof the following new section:

"SEC. 9512. TRUST FUND FOR MEDICAL TREATMENT OUTCOMES RESEARCH.

"(a) CREATION OF TRUST FUND.—There is established in the Treasury of the United States a trust fund to be known as the 'Trust Fund For Medical Treatment Outcomes Research' (hereafter referred to in this section as the 'Trust Fund'), consisting of such amounts as may be appropriated or credited to the Trust Fund as provided in this section or section 9602(b).

"(b) TRANSFERS TO TRUST FUND.—There is hereby appropriated to the Trust Fund an amount equivalent to the taxes received in the Treasury under section 4501 (relating to tax on health insurance policies).

"(c) DISTRIBUTION OF AMOUNTS IN TRUST FUND.—On an annual basis the Secretary shall distribute the amounts in the Trust Fund to the Secretary of Health and Human Services. Such amounts shall be available to the Secretary of Health and Human Services to pay for research activities related to medical treatment outcomes.".

(B) CONFORMING AMENDMENT.—The table of sections for subchapter A of chapter 98 of the Internal Revenue Code of 1986 is amended by adding at the end thereof the following new item:

"Sec. 9512. Trust Fund for Medical Treatment Outcomes Research.".

(3) EFFECTIVE DATE.—The amendments made by this subsection shall apply to policies issued after December 31, 1992.

SEC. 603. HEALTH CARE COST CONTROL—EXPENDITURE TARGETS.

(a) IN GENERAL.—Not later than 1 year after the date of enactment of this Act, the Secretary of Health and Human Services (hereafter in this section referred to as the "Secretary"), after considering the recommendations of the Health Care Cost Control Advisory Committee established under subsection (b), shall prepare and submit to the appropriate committees of the Congress a report concerning the establishment of national spending targets for health care and health care services. Such report shall contain the recommendations of the Secretary concerning the feasibility—

(1) for controlling the cost of health care, reducing cost shifting and maintaining the quality of care;

(2) of establishing national targets for health expenditures;

(3) of establishing national reimbursement targets for hospital services;

(4) of establishing national reimbursement targets for physicians' services; and

(5) of establishing national reimbursement targets for prescription drug services.

(b) HEALTH CARE COST CONTROL ADVISORY COMMITTEE.—

(1) ESTABLISHMENT.—There shall be established a Health Care Cost Control Advisory Committee (hereafter referred to in this subsection as the "Committee").

(2) MEMBERSHIP.—The Committee shall be composed of 8 individuals appointed by the Secretary, representing—

(A) physicians;

(B) hospitals;

(C) pharmacies;

(D) private insurers;

(E) State and local governments;

(F) employers;

(G) organized labor; and

(H) academia with expertise as a health economist,

(3) COMPENSATION.—

(A) IN GENERAL.—Members of the Committee shall serve without compensation.

(B) EXPENSES REIMBURSED.—While away from their homes or regular places of business on the business of the Committee, the members of the Committee may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of title 5, United States Code, for persons employed intermittently in Government service.

(C) APPLICATION OF THE ACT.—The provisions of the Federal Advisory Committee Act (5 U.S.C. App.) shall not apply with respect to the Committee.

(D) SUPPORT.—The Secretary shall supply such necessary office facilities, office supplies, support services, and related expenses as necessary to carry out the functions of the Committee.

By Mr. KOHL (for himself, Mr. SPECTER, Mr. LIEBERMAN, Mr. WOFFORD, Mr. CONRAD, Mr. KASTEN, Mr. JEFFORDS, Mr. GRASSLEY, Mr. COATS, Mr. LUGAR, Mr. COHEN, Mr. HARKIN, Mr. WELLSTONE, and Mr. GLENN):

S. 3177. A bill to amend title 13, United States Code, to require the Secretary of Commerce to notify the Senate and House of Representatives about changes in the methodology for producing numbers used in any Federal funding formula; to the Committee on Governmental Affairs.

NOTIFICATION ON CERTAIN FEDERAL FUNDING FORMULAS

• Mr. KOHL. Mr. President, today I and my colleague, the Senator from Pennsylvania, are introducing two bills. One is designed to keep the Census Bureau from changing population estimates in a way that will affect the distribution of billions of dollars. The other bill makes sure that the Bureau won't make a decision of this magnitude ever again without ample opportunity for public discussion and congressional review.

This legislation is necessary because the Census Bureau has recently—and unexpectedly—again raised the issue of adjusting the census. This time, they are considering adjusting what is known as the intercensal estimates, the estimates made by the Census Bureau each year updating the decennial population count. According to the General Accounting Office, the intercensal estimates are used in 66 funding formulas to distribute $80 billion in Federal dollars. The Census Bureau arrives at these estimates by taking the State population figures for 1990 and then reestimating them considering information such as births, deaths, and people moving from State to State.

It is important to note that this is how the intercensal estimates are created—not how they are adjusted. Adjusting these estimates means adjusting the 1990 census to correct for the undercount identified that year. Though we all agree that the undercount must be addressed, there is no consensus that statistically adjusting the 1990 census is the way to do that. In fact, last year, the Secretary of Commerce decided not to use adjusted census numbers for reapportionment because it couldn't be shown that they were more accurate at the block level. Even at the State level, the Secretary found that adjusted numbers were less accurate for many State population counts.

So last summer, according to the Secretary of Commerce, there were still a number of unresolved problems with adjusting the census numbers. And last winter, at a hearing I held on adjustment, the Census Bureau testified that there were still a number of unresolved problems with adjusting census numbers. And last spring, at a statistical meeting in Tokyo, the Census Bureau reported that there were still a number of unresolved problems with adjusting census numbers.

Given this consistent, if not entirely encouraging, record, imagine my surprise when, in July, I started hearing rumors that the Census Bureau was about to adjust census numbers.

Without warning, without hearings, without public input, and without consultation with statisticians, the Census Bureau was about to do what it had previously insisted there was not enough evidence to do. I, and several other Senators and Governors who follow this issue closely, contacted the Bureau and the Commerce Department. Our complaints must have been heard, because on Monday of the week the decision was to be announced, we learned that the Census Bureau was going to allow 3 weeks for public comment. That announcement—formal announcement of that appeared last Friday.

The first bill Senator SPECTER and I are introducing today is an immediate response to this whole bizarre chain of events. Last minute whispers of an impending decision, no public record defending adjustment, and an election year in which the States that win under adjustment—California, Texas, Florida—are very important; all combine to make the Bureau's decision-making process look bankrupt at best. People believe that the Bureau has made its mind up to adjust, and people believe that its motives are not all based on sound statistics. The period for public comment looks like a simple charade to pacify Congress.

Our bill will stop this process before it is allowed to determine the reallocation of $80 billion in Federal funds. We believe it is best for reasoned debate on the issue of adjustment, and for the future reputation of the Census Bureau, to put off any decision to adjust for 3 years. It will take that long for the Bureau to overcome the allegation of election-year politics, of institutional bias, and of secrecy that have poisoned the current process.

And even if the process had not failed so miserably, I would not argue for using adjusted numbers. The experts were divided on this issue last year and remain divided. There is no consensus among professionals that adjusted numbers are better. Many say they are worse. The Census Bureau believes that adjusted State numbers are more accurate. Most State demographers, who have to generate population estimates for their States, disagree.

And even if there were agreement among the experts, I would not argue for using the adjusted numbers. Most of those who argue in favor of adjustment argue that adjusted numbers are more accurate at the State level and unadjusted numbers more accurate at

the sub-State level. If the Census Bureau were to agree to adjust one data base and not another, it would render the intercensal estimate useless for policy purposes.

The best numbers are not defined in a vacuum; they are defined by the use of those numbers. Some of the program formulas that use intercensal estimates require both State and sub-State numbers—Community service block grants are a major one. A system that provides adjusted State estimates and unadjusted sub-State numbers is a program administrator's worst nightmare. You will have a situation where the administrator will add one plus one plus one for a State total of five.

The second bill my colleague from Pennsylvania and I introduce today tries to convert the lessons from this fiasco into good public policy. We are requiring the Census Bureau to notify Congress of any change in methodology that will cause States to gain or lose $5 million or more.

There are two reasons for this. First, it recognizes that the Census Bureau must consider in the decision process how the numbers it generates are used. Second, by forcing the Census Bureau to defend its decisions in a public forum, it forces them to look beyond the confines of Suitland and develop support for their positions. Statisticians are deeply divided over adjustment. Until the experts agree, we should be very skeptical.

Mr. President, clearly I am disturbed by the Bureau's steamroll toward adjustment because Wisconsin loses $15 million in the process. But it is not just that we are being robbed in this case, it is the way we are being robbed: In the dead of night, without any warning or chance to protect ourselves, and without any police or court system to protect us once the deed is done. I will engage in policy debate with anyone in this body, I will fight for Wisconsin dollars all day and all night long, and I will win some and I will lose some. But I will not stand by as Wisconsin dollars are spirited away in a process that has no scrutiny, by a judgment that has no consensus, or by an outcome that contains so little common sense.

Technical decisions are not made in the dead of night. Technical decision can stand up to public scrutiny. Technical decisions do not hurt real people by taking away Federal subsidies for health care or community development. The decision to adjust is not a technical decision. It is a policy of decision that should be made in the light of day, with plenty of public debate. It is a decision that should not be made by a Census Bureau tainted by accusations of political game playing.

I urge my colleagues to support these two bills. Let's put this policy decision—this decision that has human costs—back in the public domain where it belongs.•

By Mr. SPECTER (for himself, Mr. KOHL, Mr. KASTEN, Mr. JEFFORDS, Mr. GRASSLEY, Mr. COATS, Mr. LUGAR, Mr. COHEN, Mr. LIEBERMAN, Mr. WOFFORD, Mr. CONRAD, Mr. HARKIN, Mr. WELLSTONE, Mr. LEAHY, and Mr. GLENN):

S. 3178. A bill to prohibit the use of appropriated funds to adjust the 1990 decennial census or any intercensal estimates by the Bureau of the Census; to the Committee on Governmental Affairs.

PROHIBITING FUNDS FOR ADJUSTMENT OF 1990 CENSUS

• Mr. SPECTER. Mr. President, today I am introducing legislation to prohibit the Bureau of the Census from making statistical adjustments to the 1990 decennial census. Presently, the Bureau is considering the use of statistically adjusted numbers as the basis for its intercensal estimates which would have a substantial impact on the geographic distribution of Federal funds. It is my belief that the use of a statistical adjustment is unwarranted because there simply is not sufficient statistical precision in the adjustment counts to displace the traditional and more reliable original headcount.

Mr. President, an accurate census is vital to the ongoing functions of the government. A census provides valuable information of Federal, State, and local governments for the development of policy and the distribution of funding through government-sponsored programs. The U.S. Department of Commerce and the U.S. Census Bureau have monitored the success of the most recent 1990 census. Despite attempts to conduct the most successful census data collection in history, data from the Census Bureau indicates that the 1990 census missed millions of persons and contained millions of errors. The Department and the Bureau have recognized the inaccuracy of the 1990 count, and according to a recent GAO report, the Department is considering a complete reassessment of the process of taking a nationwide census.

Data from the Post-Enumeration Survey [PES] indicates that the net undercount to be an estimated 2.1 percent of the population or approximately 5.3 million persons. With this data, the Department of Commerce and the Census Bureau are considering making a statistical adjustment to the Census Bureau's annual population survey, which is known as the Intercensal Estimates. However, there simply is insufficient statistical reliability in adopting the adjusted numbers to warrant the use of this data. Mr. L. Nye Stevens of the General Accounting Office testified before the Senate Governmental Affairs Committee that an adjustment of the census numbers must only be used when an adjustment brings the distributed counts closer to the truth than the census head count. He stated very clearly the Post-Enumeration Survey does provide important data, but in the final analysis the overall quality of the PES is not absolutely certain. Further, Mr. David Freedman of the University of California at Berkely has testified that the current adjustment technology is not well adapted to correcting the census and may make things worse rather than better.

Last year, the Secretary of Commerce considered this issue in the context of adjusting the 1990 census. On July 15, 1991, the Secretary announced that there would be no adjustment of the census, indicating that much more study would be necessary before the adjusted estimate could be used for any official purpose. In hearings before the Senate Governmental Affairs Committee, the Secretary questioned the technological soundness of the adjustment and further suggested that when an analysis of the proportional distribution of funds under Federal programs is conducted, it is difficult to argue that the adjusted numbers are more accurate than the unadjusted numbers.

Mr. President, the intercensal estimate is the Bureau's annual effort to update the decennial census based on information from birth and death records and information on immigration and emigration. I suggest, Mr. President, that the same problems which the Secretary faced in his decision not to adjust the decennial census last July remain unresolved, making an adjustment of the intercensal estimates unwarranted. Many of these concerns of the accuracy of a statistical adjustment to the lowest level of geography have been under review by the Census Bureau since last year. However, Congress and the public have had no indication that an adjustment using a statistical model is more accurate down to the community level.

The adjustments being considered would have an unfortunate negative impact on many States and local governments in the Nation. This seemingly innocent technical adjustment of the intercensal figures will redistribute approximately $80 billion through some 66 Federal programs. This action would be unfair to States which have already prepared their budgets for the next fiscal year. One primary program which would be impacted by the adjustment is the Medicaid Program which delivers vital health care to our Nation's poor. The Medicaid Program relies on the census for key information of a State's indigent population in determining the Federal contribution. A reduction in these funds would either result in a State having to increase its already strained funding capacity for the program or result in reduced services to the public.

Mr. President, we have a reliable, consistent, and, generally, a most accurate method of determining the total

population and demographic information of our Nation's States and municipalities. We can easily adjust the decennial census and the intercensal estimate using statistical models or samples. I strongly believe, however, that until we are certain that the adjusted numbers are more accurate than the headcount approach we should not apply this data. Therefore, Mr. President, I am introducing this bill to prohibit a statistical adjustment of the census. I am also joining Senator KOHL today in introducing legislation to reform the process through which the Census Bureau may adjust the census to ensure that the public and Congress have an opportunity to fully evaluate such proposed adjustments of the census. These two bills will ensure that the most accurate method of taking the census is used today and in the future.

Mr. President, I wish to thank Senator KOHL, his staff on the Governmental Affairs Committee, and the Northeast Midwest Senate Coalition for their insightful work in this regard. I urge my colleagues' consideration and approval of this important legislation.●

By Mr. KENNEDY (for himself, Mr. HATCH, Mr. DURENBERGER, Mr. WELLSTONE, and Mr. MITCHELL):

S. 3179. A bill to amend title IX of the Public Health Service Act to revise and extend programs under such title, and for other purposes; to the Committee on Labor and Human Resources.

AGENCY FOR HEALTH CARE POLICY AND RESEARCH AUTHORIZATION ACT

● Mr. KENNEDY. Mr. President, with my colleague from Utah, Senator HATCH, I am introducing legislation to extend the authorization for the Agency for Health Care Policy and Research

The two major goals of comprehensive health care reform are universal access to quality health care and cost containment. Much of the work of the Agency for Health Care Policy and Research seeks to achieve these goals by encouraging access to health care and promoting improvements in clinical practice, and the delivery of health care services.

Better information about the effectiveness and appropriateness of health care services and medical technology is vital for our efforts to provide universal access to high quality, affordable health care. We need to use health care resources wisely, and find better ways to contain costs while maintaining high quality.

Since its creation in 1989, the Agency for Health Care Policy and Research has made impressive progress in activities intended to enhance the quality, effectiveness and efficiency of health care services. The reauthorization of the agency will continue this important work, especially in the critical areas such as practice guidelines, technology assessment, outcomes research and health services research.

In this reauthorization, we seek to increase public accountability for the technology assessment activities performed by the agency. We direct it to develop and publicize the process used to select assessment topics, and to publish a description of the methods used to conduct its assessments. In addition, we direct the agency to expand its activities in conducting assessments of significant importance to the general public.

Federal efforts in health care technology assessment have aroused significant controversy in recent years, and serious questions have been raised about the appropriate role for the Federal Government. To its credit, the agency has provided a public forum to discuss the risks and benefits of more centralized assessment of medical technology. While no consensus has emerged, several useful suggestions did result from these meetings and are represented in this legislation.

Other important issues addressed in the bill are the lack of coordination of technology assessment activities among the many institutions which perform this work, and the difficulty of accessing these assessments. Many experts have suggested that a central clearinghouse be established to ensure that assessments from all sources are readily available through one access point. The bill encourages the agency to participate in the development and use of a technology assessment clearinghouse, to assure that information is available and that duplication of efforts is minimized.

The bill we are introducing today would also establish a task force in the Department of Health and Human Services to support interagency collaboration and to develop methods of studying new technologies. This provision is prompted by a number of problems which have arisen with regard to new medical practices. In many cases, the early use of a new technology is not accompanied by formal study. Without adequate data, experts are not able to determine whether a new technique or device is experimental or proven effective. In some cases, decisions about proper patient care are being decided through the judicial process because there is disagreement over whether a given procedure is effective.

With more organized approaches to evaluating newly emerging technologies, the new technologies can be proven more quickly, and ineffective techniques will be identified before harm is done. The task force is directed to identify workable approaches to new technologies and to report to Congress with such recommendations.

In almost all proposals to reform our health care system, practice guidelines and outcomes research are identified as playing a critical role in helping to determine which medical services are most effective. By reducing the volume of unnecessary services, we can contribute to containing health care costs and maintaining the high quality of medical care the Nation expects.

This year the agency has released its first three clinical practice guidelines. More than a dozen other guidelines are under development. This reauthorization will maintain the emphasis on guideline development. It also directs the agency to develop methods to allow providers and patients to compare the risks, benefits and costs of alternative medical strategies.

I commend my colleagues, especially Senator HATCH, Senator MITCHELL, and Senator DURENBERGER for their support for the agency and for their contributions to this bipartisan reauthorization. I also commend Senator GRAHAM for his suggestions on health promotion and disease prevention.

I look forward to early enactment of this legislation, and I ask unanimous consent that the text of the bill may be printed in the RECORD.

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

S. 3179

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE AND REFERENCES.

(a) SHORT TITLE.—This Act may be cited as the "Agency for Health Care Policy and Research Reauthorization Act of 1992".

(b) REFERENCES.—Except as otherwise specifically provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or a repeal of, a section or other provision, the reference shall be considered to be made to that section or other provision of the Public Health Service Act (42 U.S.C. 201 et seq.).

SEC. 2. ESTABLISHMENT AND GENERAL AUTHORITIES.

(a) ESTABLISHMENT.—Section 901(b) (42 U.S.C. 299(b)) is amended by inserting after "improvements in clinical practice" the following: ", including the prevention of diseases and other health conditions,".

(b) GENERAL AUTHORITIES.—Section 902 (42 U.S.C. 299a) is amended—

(1) by redesignating subsections (c) and (d) as subsections (d) and (e), respectively; and

(2) by inserting after subsection (b), the following new subsection:

"(c) HEALTH SERVICES TRAINING GRANTS.—The Administrator may provide financial support for training grants in the field of health services research, to include pre- and post-doctoral fellowships and training programs, Young Investigator Awards, career faculty support, and other programs and activities as appropriate.".

SEC. 3. DISSEMINATION.

Section 903 (42 U.S.C. 299a–1) is amended by adding at the end thereof the following new subsection:

"(e) HEALTH CARE TECHNOLOGY ASSESSMENTS.—

"(1) IN GENERAL.—The Administrator shall provide for the gathering, organizing, summarizing, and conveyance of technology as-

sessment information, either directly or through contract, to provide a single public source for all assessment information available with respect to health care technologies.

"(2) PUBLICITY.—The Administrator shall publish an annual notice in the Federal Register to announce the availability of the compendium of assessments that have been added to the technology assessment database for that year.

"(3) RECOMMENDATIONS OF RESEARCH PRIORITIES.—The Administrator shall provide by contract for an annual report on technology assessments. The report shall contain information on—

"(A) the volume of requests for reports concerning specific technologies;

"(B) the identified limitations or inconsistent findings in both existing assessments and on-going assessments being conducted by either public or private entities;

"(C) recently published studies that raise questions concerning previously assessed technologies; and

"(D) identified gaps in assessment information.

The Administrator shall consider information from such annual reports in setting research priorities under section 904(c)(3).

"(4) INTERAGENCY AGREEMENT.—The Administrator and the Director of the National Library of Medicine shall enter into an agreement providing for the implementation of this subsection.".

SEC. 4. HEALTH CARE TECHNOLOGY ASSESSMENT.

Section 904 (42 U.S.C. 299a–2) is amended—

(1) in subsection (a)—

(A) by striking out "and" at the end of paragraph (4);

(B) by striking out the period at the end of paragraph (5) and inserting in lieu thereof "; and"; and

(C) by adding at the end thereof the following new paragraph:

"(6) by conducting appropriate assessments and reassessments of existing and new health care technologies, to be achieved, in part, through an evaluation of health services provided to individuals through publicly and privately funded sources.";

(2) in subsection (b)(2), by striking out "and effectiveness, and, as appropriate, the cost-effectiveness" and inserting in lieu thereof "effectiveness, cost-effectiveness, and, as appropriate";

(3) in subsection (c) to read as follows:

"(c) PRIORITIES.—

"(1) ESTABLISHMENT OF PRIORITIES.—In accordance with paragraph (2), the Administrator, in consultation with the Advisory Council established under section 921, shall establish and publish a formal and explicit methodology for setting priorities with respect to technology assessment. Such methodology shall allow for a broad spectrum of public inputs into the process for priority setting, including inputs from providers, private payors, government payors, Federal agencies, medical product manufacturers, consumers, businesses, and labor organizations. Such methodology shall also address the impact of technology on publicly funded programs.

"(2) CONSIDERATIONS.—In establishing the methodology for priorities under paragraph (1), the Administrator shall consider—

"(A) the prevalence of the health condition for which the technology aims to prevent, diagnose and treat;

"(B) variations in current practice;

"(C) the economic burden posed by the prevention, diagnosis, and treatment of the health condition, including the impact on publicly-funded programs;

"(D) aggregate cost of the use of technology;

"(E) the morbidity and mortality associated with the health condition;

"(F) the potential of an assessment to improve health outcomes or affect costs associated with the prevention, diagnosis, or treatment of the condition; and

"(G) special ethical, legal or social issues associated with the condition or technology involved.

"(3) IMPLEMENTATION.—The Administrator, in consultation with the Advisory Council, shall implement the priority setting methodology developed under paragraph (1) to produce, at least annually, a ranked list of the procedures, devices, and drugs for which technology assessments are to be conducted or supported. Such list shall be published annually in the Federal Register.

"(4) CONDUCT OF ASSESSMENTS.—The Office of Health Technology Assessment shall annually conduct not less than five of the technology assessments determined under the methodology established under paragraph (1) to be of high priority, in addition to those assessments performed at the request of the Health Care Financing Administration.";

(4) in subsection (d), by adding at the end thereof the following new paragraph:

"(4) DESCRIPTION OF PROCESS.—Not later than January 1, 1994, the Office of Health Technology Assessment shall develop and publish, through a notice and comment procedure, a description of the process used to conduct its technology assessments. The description shall include the methods of data gathering, selection and synthesis, as well as the procedure used for obtaining and incorporating input from sources other than the published literature."; and

(5) by adding at the end thereof the following new subsections:

"(e) PUBLIC-PRIVATE PARTNERSHIPS.—

"(1) ESTABLISHMENT OF PROGRAM.—The Administrator shall establish a program of awarding grants, contracts, or cooperative agreements to eligible entities for the establishment of public-private partnerships for the purpose of conducting health care technology assessments on emergency, existing, or potentially outmoded and related activities in the private sector.

"(2) ELIGIBLE ENTITIES.—Entities eligible to receive a grant, contract, or cooperative agreement under paragraph (1), shall include academic medical centers, research institutions, or a consortia of appropriate entities established for the purpose of conducting technology assessments, or other entities as determined appropriate by the Administrator.

"(3) APPLICATION.—To be eligible to receive a grant, contract, or cooperative agreement under paragraph (1), an entity shall prepare and submit to the Administrator an application, at such time, in such form, and containing such information as the Administrator may require.

"(4) PRIORITIES.—The Administrator shall ensure that assessments undertaken under this subsection concern topics of high priority as determined under the priority setting methodology established in subsection (c).

"(f) TASK FORCE.—

"(1) ESTABLISHMENT.—The Secretary shall establish a task force (hereafter referred to in this subsection as the 'task force') to support interagency collaboration on health technology assessment.

"(2) REPRESENTATIVES.—The task force shall include representatives from the office of the Secretary, the Assistant Secretary for Health, the Assistant Secretary for Planning and Evaluation, the Health Care Financing Administration, the National Institutes of Health, the Food and Drug Administration, the Centers for Disease Control, the Department of Veterans Affairs, and the Department of Defense.

"(3) PURPOSE.—The purpose of the task force shall be to establish a permanent body to encourage interagency collaboration and support for technology assessment and information dissemination, including development of new and emerging technologies, conduct of clinical trials, and consensus development. The task force shall identify needs for information on new and existing technologies and opportunities to support joint efforts in technology assessment.

"(4) REPORT.—Not later than June 1, 1994, the Secretary shall prepare and submit to the appropriate committees of Congress, a report concerning the progress of the task force.".

SEC. 5. PRACTICE GUIDELINES.

Section 912 (42 U.S.C. 299b–1) is amended—

(1) in subsection (b)—

(A) by striking out "and" at the end of paragraph (2);

(B) by striking out the period at the end of paragraph (3) and inserting in lieu thereof "; and"; and

(C) by adding at the end thereof the following new paragraph:

"(4) include information on the risks, benefits, and costs of all alternative strategies for the prevention, diagnosis, treatment, and management of a given disease, disorder, or other health condition, where cost information is available and reliable.";

(2) in subsection (d) to read as follows:

"(d) CERTAIN GUIDELINES AND STANDARDS.—Not later than January 1, 1994, the Administrator shall ensure that a set of guidelines, standards, performance measures, and review criteria are developed as described in subsection (a)(1) that shall include not less than three clinical treatments or conditions that—

"(1) account for a significant portion of national health expenditures;

"(2) have a significant variation in the frequency or the kind of treatment provided; or

"(3) are identified by the Advisory Council established under section 921 as likely to represent treatments or conditions for which significant inappropriate utilization of health care resources occurs."; and

(3) by adding at the end thereof the following new subsection:

"(f) PRACTICE GUIDELINES RESOURCE CENTER.—

"(1) ESTABLISHMENT.—There shall be established as part of the Information Center established under section 903(e), a Resource Center for Clinical Practice Guidelines.

"(2) IDENTIFICATION SYSTEM.—The National Library of Medicine shall establish a system to identify practice guidelines with respect to the collection of information and to provide, electronically and in a convenient format, information concerning the source of such guideline, date of publication of the guideline, a summary of the content of the guideline, and a description of the methodology by which a guideline was developed.

"(3) INTERAGENCY AGREEMENT.—The Administrator shall enter into an agreement with the Director of the National Library of Medicine to implement this subsection.

SEC. 6. FORUM FOR QUALITY AND EFFECTIVENESS IN HEALTH CARE.

(a) ADMINISTRATION OF OFFICE.—Section 911 (42 U.S.C. 299b) is amended by adding at the

end the following sentence: "The Administrator shall carry out this part acting through the Director.".

(b) CONFORMING AMENDMENTS.—Part B of title IX (42 U.S.C. 299b et seq.) is amended—

(1) in section 912(a)—

(A) by striking out "The" and all that follows through "shall" in the first sentence and inserting "The Administrator shall"; and

(B) by striking out "and effectiveness" and inserting in lieu thereof "effectiveness, and cost-effectiveness"; and

(C) by striking out "Director" in the second sentence and inserting "Administrator";

(2) in section 912(c), by striking "Director" and inserting "Administrator";

(3) in section 913—

(A) by striking out "Director" in subsection (a), in the matter preceding paragraph (1), and inserting "Administrator";

(B) by striking out "Director" in subsection (b), in the matter preceding paragraph (1), and inserting "Administrator";

(C) by striking out "Director" each place that such terms appears in subsection (c), and inserting "Administrator"; and

(D) by adding at the end of subsection (c) the following new sentences: "The Panel Chairperson and panel members shall be selected in consultation with the Advisory Council. There shall be a balance between providers drawn from academic settings and providers without full-time academic appointments. At least one of the panel members shall have expertise in epidemiology, health services research or health economics, as well as familiarity with the clinical condition or treatment in question. At least two other panel members shall be persons who do not derive their primary source of revenue directly from the performance of procedures discussed in the guideline.".

(4) in section 914—

(A) in subsection (b), by striking out "Director" each place that such term appears in paragraph (1) and (2), in the matter preceding subparagraph (A) of paragraph (3), and paragraph (4), and inserting "Administrator"; and

(B) in subsection (c), in the first sentence, by striking out "Director" and inserting "Administrator";

(C) in subsection (d), in the first sentence, by striking out "Director" and inserting "Administrator"; and

(D) in subsection (e), by striking out "Director" and inserting "Administrator".

(c) PEER REVIEW WITH RESPECT TO GRANTS AND CONTRACTS.—

(1) ESTABLISHMENT OF PEER REVIEW GROUPS.—Section 922(c)(2) (42 U.S.C. 299c-1(c)(2)) is amended—

(A) by striking out "from among individuals" and all that follows through "virtue" and inserting "from among individuals who by virtue"; and

(B) by adding at the end the following sentences: "Officers and employees of the United States may not constitute more than 25 percent of the membership of any such group. Such officers and employees may not receive compensation for service on such groups in addition to the compensation otherwise received for duties carried out as such officers and employees.".

(2) CATEGORIES OF REVIEW.—Section 922(d)(1) (42 U.S.C. 299c-1(d)(1)) is amended to read as follows:

"(1) IN GENERAL.—With respect to technical and scientific peer review under this section, there shall be two categories of peer review groups as follows:

"(A) One category of such groups shall, subject to subparagraph (B), review applications with respect to research, demonstration projects, or evaluations.

"(B) The other category of such groups shall review applications with respect to dissemination research and activities, demonstration projects, evaluations, or the development of research agendas (including conferences, workshops, and meetings).".

(d) CERTAIN PROVISIONS WITH RESPECT TO DEVELOPMENT, COLLECTION, AND DISSEMINATION OF DATA.—Section 923 (42 U.S.C. 299c-2) is amended by adding at the end the following subsection:

"(c) AUTHORITY REGARDING CERTAIN REQUESTS.—Upon the request of a public or nonprofit private entity, the Administrator may tabulate and analyze statistics, and prepare studies, under arrangements under which such entity will pay the cost of the service provided. Amounts appropriated to the Administrator from payments made under such arrangements shall be available to the Administrator for obligation until expended.".

SEC. 7. PREVENTION.

(a) PROGRAM AGENDA.—Section 914 (42 U.S.C. 299b-3) is amended—

(1) in subsection (a)(2)(A)—

(A) by striking out clause (i);

(B) by redesignating clauses (ii) and (iii) as clauses (iii) and (iv), respectively; and

(C) by inserting before clause (iii) (as so redesignated) the following new clauses:

"(i) to improve methods for disease prevention;

"(ii) to improve methods of diagnosis, treatment, and clinical management for the benefit of a significant number of individuals;"; and

(2) in subsection (a), by adding at the end thereof the following new paragraph:

"(3) CERTAIN PRIORITIES FOR RESEARCH.—In carrying out section 902(a)(2), the Administrator may conduct and support assessments of disease prevention and health promotion services.".

(b) DUTIES.—Section 912 (42 U.S.C. 299b-1) as amended by section 5(3), is further amended by adding at the end thereof the following new subsection:

"(g) DEVELOPMENT OF CERTAIN GUIDELINES AND STANDARDS.—Not later than January 1, 1995, the Administrator shall ensure that a set of guidelines, standards, performance measures, and review criteria, are developed under subsection (a)(1) that shall include the prevention of not fewer that three conditions that account for significant national health expenditures. In carrying out this subsection the Administrator shall consult with the United States Preventive Services Task Force.".

SEC. 8. ADDITIONAL REQUIREMENTS.

Section 914 (42 U.S.C. 299b-3) is amended—

(1) by adding at the end of subsection (a)(2), the following new subparagraph:

"(C) The Administrator shall produce in consultation with the Subcouncil on Outcomes and Guidelines of the Advisory Panel an annual list of priority guideline topics. Such list shall become the preferred priority of guideline topics to be initiated by the Agency or through the granting of contracts as described under section 913(a).";

(2) in subsection (d) to read as follows:

"(d) PILOT TESTING.—The Administrator shall conduct or support pilot testing of the guidelines, standards, performance measures, and review criteria, developed under section 912(a). Any such pilot testing shall be conducted prior to and concurrently with the dissemination of such guidelines, standards, performance measures, and review criteria under subsection (c).";

(3) in subsection (e)—

(A) by inserting "(1) EFFECTIVENESS OF GUIDELINES.—" before "The";

(B) by adding at the end of paragraph (1) the following new sentences: "The Administrator shall ensure that evaluations also review the safety, validity, and usefulness of guidelines and the scope of their dissemination. Evaluations shall be planned and initiated prior to the completion and release of the guideline, so that baseline data concerning practice patterns and health care costs may be obtained as part of the evaluation."; and

(C) by moving paragraph (1) flush to the left margin and indenting such paragraph 2 ems; and

(3) by adding at the end thereof the following new subsection:

"(g) STUDIES.—

"(1) COST ESTIMATES.—To assist in carrying out the requirements of section 912(b)(4), the Administrator shall commission such studies as are necessary to determine appropriate methods of generating reasonable cost estimates with respect to alternative treatments to be included in guideline documents.

"(2) REPORT.—Not later than January 1, 1994, the Administrator shall prepare and submit to the appropriate committees of Congress a report concerning the study conducted under paragraph (1).

"(3) EVALUATION.—The Administrator shall conduct or support an evaluation of the process described in section 913, by which guidelines and standards are developed, and the process described in subsection 914(c), by which such guidelines and standards are disseminated. Such evaluation shall consider other existing methods of developing and disseminating practice guidelines.".

SEC. 9. ADVISORY COUNCIL.

Section 921 (42 U.S.C. 299c) is amended—

(1) in subsection (b), by adding at the end thereof the following new paragraph:

"(3) ADDITIONAL DUTIES.—The Advisory Council shall advise the Administrator concerning the selection of Guideline Panels and the Chairpersons of such Panels, and shall participate in production of the annual list of priority guideline topics as described under section 914(a)(2)(C).";

(2) by striking out subsection (d);

(3) by redesignating subsections (e) through (k) as subsections (d) through (j), respectively; and

(4) in subsection (e) (as so redesignated), by striking out "subsection (e)" and inserting in lieu thereof "subsection (d)".

SEC. 10. AUTHORIZATION OF APPROPRIATIONS.

Section 926 (42 U.S.C. 299c-5) is amended—

"(1) in subsection (a) to read as follows:

"(a) AUTHORIZATION OF APPROPRIATIONS.—For the purpose of carrying out this title, there are authorized to be appropriated $115,000,000 for fiscal year 1993, and $145,000,000 in fiscal year 1994."; and

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

"(c) HEALTH CARE TECHNOLOGY ASSESSMENT.—For the purpose of carrying out dissemination activities under section 903(e) there are authorized to be appropriated $2,000,000 for fiscal year 1993, and such sums as may be necessary for fiscal year 1994.

"(d) AUTHORIZATION OF APPROPRIATION.—For purposes of establishing the public-private partnership grant program under section 904(e) there are authorized to be appropriated $2,000,000 for fiscal year 1993, and such sums as may be necessary in fiscal year 1994.".

SEC. 11. EMERGENCY MEDICAL SERVICE FOR CHILDREN.

Section 1910 (42 U.S.C. 300w-9) is amended—

(1) in subsection (a), by striking out "not more than four grants in any fiscal year" and inserting in lieu thereof "grants"; and

(2) in subsection (d)—

(A) by striking out "and $5,000,000" and inserting in lieu thereof "$5,000,000"; and

(B) by inserting before the period the following: ", and such sums as may be necessary for each of the fiscal years 1992 through 1997".●

Mr. MITCHELL. Mr. President, I rise in support of the Agency for Health Care Policy and Research Reauthorization of 1992. The provisions of this bill will build upon the important work of the Agency and expand efforts to evaluate existing and emerging technology.

In 1988, as chairman of the Health Subcommittee of the Senate Finance Committee, I introduced legislation to increase funding for research assessing the effectiveness and outcomes of health care practices. Impetus for this legislation was provided by results of the Maine Medical Assessment Foundation, which demonstrated that physicians provided with credible information could improve the quality of their patients' care while avoiding millions of dollars in unnecessary health care costs. The bill became law that year, providing funding for four major assessment studies approved by the National Center for Health Services Research, the predecessor of the AHCPR.

In April 1989 I introduced a second generation bill which increased and improved the Patient Outcomes Assessment Research Program. Senator KENNEDY, Congressman WAXMAN, and Congressman GRADISON introduced similar legislation that year. The major goal of all the bills was to improve the quality, effectiveness, and appropriateness of health care. In addition, the cost containment implications of the new research program became apparent and eminent.

The legislation that resulted from these bills established the new Agency for Health Care Policy and Research to subsume and expand upon the work of the NCHCR. The AHCPR's mandate encompasses two related domains, first, promoting health services research generally, with special emphasis on effectiveness, outcomes, and appropriateness studies and database innovation, and second, the development of clinical practice guidelines.

Under the auspices of AHCPR, comprehensive health services research should lead to real-world demonstrations of health care measures and practice modifications. Results and policies arising from successful demonstrations should be properly disseminated. Finally, health systems' responses to the policies should be monitored to revise the agenda for future research.

Within the last year a number of important studies and guidelines have been released by the Agency including a guideline on Acute Pain Management. These guidelines have been widely disseminated and have been enthusiastically received.

This information, and other similar guidelines can be used by physicians and other health care providers to improve the practice of medicine and to reduce the number of unnecessary and ineffective medical procedures.

As we continue our efforts to reform the Nation's health care system we must continue to support the Agency's general health services research. Health services research addresses some of the most important issues facing our health care system: How can we more equitably finance health care for the poor and the elderly? Which alternative health care delivery systems might better serve our needs? How can we assess the quality of care?

The reauthorization bill we are introducing today will expand the Agency's role in the evaluation of new and existing technology—clearly one of the factors driving up the cost of health care in our Nation.

The legislation establishes a task force to explore the development of collaborative methods for obtaining valid and reliable data on the risks, benefits, and costs of technologies following their development.

The use of practice guidelines in clinical practice are further emphasized in this bill with language encouraging the development of guidelines that will allow providers and patients to compare benefits as well as costs of alternative medical strategies.

The work of this agency is vital to this Nation's efforts to control health care costs and provide access to health care services to every man, woman, and child. I enthusiastically support the work of the Agency for Health Care Policy Research and believe this bill will allow the Agency to continue to provide essential information for the provision of quality health care services to all Americans. I commend Senators KENNEDY and HATCH for their dedication to the Agency.

Mr. HATCH. Mr. President, I would like to join Senators KENNEDY and DURENBURGER in introducing the reauthorization bill of the Agency for Health Care Policy and Research. I enjoin all of my colleagues to see that this relatively small but vital agency of the Public Health Service is receiving a proper level of congressional attention.

The Agency for Health Care Policy and Research [AHCPR] serves as a focal point for health services research and seeks to achieve its primary mission of enhancing the quality of patient care in several ways:

Promoting improvements in clinical practice and patient outcomes through more appropriate and effective services;

Promoting improvements in the financing, organization, and delivery of health care services; and,

Increasing access to quality care.

Mr. President, I would hope that all of our colleagues would agree that AHCPR can and should play a key role in the general health care reform debate by providing critical information and policy analysis. The work of this small agency serves as the basis for provisions in nearly every health care reform proposal discussed to date. Those on every side of the health care reform debate rely on the information produced by this agency to improve the health care efficiency in the future.

It has been noted by many that the problem with the American health care system is not that we are spending too little, it is that we need to be smarter about how we use our $800 billion health care dollars.

Mr. President, we all understand that the legislative year is growing short. We all realize that when we return after Labor Day the time will be extremely short.

I pledge to continue to work with you over the August recess to iron out the rough spots of the AHCPR bill. As you are aware, I am not yet fully satisfied with all of the provisions contained in the current language:

For example, while I think is useful to assure that AHCPR quickly and efficiently disseminates health care technology assessments, I think that the current measures regarding the clearing house can be improved.

Also, while I agree that we must have a clearly defined process for requesting, prioritizing, and paying for technology assessments, we need to flesh out these provisions.

Similarly, while there may be merit in encouraging public/private partnerships and demonstration projects on emerging technologies, both of these sections will need buttressing if we are to convince our colleagues in the House to adopt them.

Nevertheless, I think we are making significant progress in perfecting this legislation. Because I believe that AHCPR can be a linchpin in the health care reform debate, I think it important that we move this bill today and continue these efforts during the remainder of this session of Congress. I also believe that a solid bipartisan bill will substantially improve the bill's chances for passage and I again commend Senator KENNEDY for his willingness to work toward that end.

Mr. DURENBERGER. Mr. President, I rise today to support the reauthorization of the Agency for Health Care Policy and Research. I join my distinguished colleagues on the Labor and Human Resources Committee, Mr. KENNEDY and Mr. HATCH, in introducing this bill.

Mr. President, Senator MITCHELL and I introduced legislation back in April 1989, to increase and improve patient outcomes assessment. During the reconciliation process that year, we

worked closely with our colleagues to establish a new agency in HHS to accomplish the goals of outcomes research.

The agency is authorized under both the Public Health Service Act and the Social Security Act. Today, we are reauthorizing only the Public Health Service portion of AHCPR which expires at the end of fiscal 1992. The authority of the agency under the Social Security Act will be reauthorized in 1994.

Consideration of this reauthorization gives us an opportunity to evaluate what the Agency has accomplished in its few short years of existence. We also have an opportunity to help the agency do better.

AHCPR has begun to produce studies in support of its mandate. Its Office of the Forum for Quality and Effectiveness in Health Care has begun to issue clinical guidelines to assist practitioners. Its Office of Medical Effectiveness Research Program is the center pioneering in outcomes and effectiveness research.

Regardless of one's views about how to finance health care access, every reform proposal requires good information on the quality, appropriateness and effectiveness of medical interventions. We may disagree on how to finance health care reform, but we do agree on the fact that we need good information so we know what we are paying for.

I have been generally satisfied with AHCPR's progress, particularly in light of its comparatively small budget.

What is emerging from AHCPR is top-flight, widely disseminated information. In one area, however, AHCPR needs to be more attentive. The agency has favored guidelines and outcomes studies at the expense of technology assessment, particularly technologies that are emerging and not well understood.

This reauthorization bill promotes public-private partnerships for collaboration on innovative approaches to technology assessment. We need to do a better job evaluating new technologies as they emerge from the laboratory and move to the bedside. We must understand which technologies give us true value added, and which ones do not—before they are widely disseminated adding unnecessary costs to our health care system.

In addition, a new feature of this bill encourages Government productivity, rather than waste and duplication. We need coordination and cooperation among all agencies within HHS. This bill creates a task force to promote interagency cooperation to identify needs for information on new and existing technologies and opportunities to support joint efforts in technology assessment.

If everyone practiced medicine the way the best do, we'd reduce medical costs 35 percent. The key to cost containment is to take all our medical business to those who produce the best value. We get value when we reward providers who do it right the first time, by diagnosing accurately and using only appropriate technology.

Mr. President, if we are really serious about value, we must have adequate information about our health care services. AHCPR has been given the monumental task to gather the information necessary to accomplish that goal.

Mr. WELLSTONE. Mr. President, I am very pleased to support the reauthorization of the Agency for Health Care Policy and Research as an original cosponsor. Congress has charged this Agency to carry out some of the most critical work on health care reform before us today. The task of identifying effective treatments for a range of health care conditions, and developing standards the health care professions can rely on, is key to the efforts we will make to provide quality health care at a reasonable cost.

The Agency's Medical Treatment Effectiveness Program [MEDTEP], using Patient Outcome Research Teams [PORT's] and the current literature, has the potential to expand our knowledge of what quality care really is.

The Agency has a related mission: To demonstrate and evaluate new ways to organize, finance, and direct health care services to improve the delivery, access to, and outcome of such services.

I believe the Agency can make a significant contribution by focusing on primary care, both in terms of treatment and in terms of organization of services. I recognize that current funding levels limit what the Agency can accomplish. But it would be helpful if the report of the Committee on Labor and Human Resources were to urge the Agency to make progress in this area during the coming year.

Primary care is the linchpin to improving care and controlling costs in the United States. Studies show better health care outcomes and higher levels of patient satisfaction in countries where a generalist model of health care predominates, and that generalists are by far the most cost effective. In most countries at least 50 percent of physicians are generalists—family physicians, general internists, and general pediatricians. But the United States has 70 percent subspecialists and only 13 percent general family physicians/general practitioners.

Nurses, nurse practitioners, dentists, and physician assistants are other important primary care practitioners.

Certainly we can concentrate on increased funds to train primary care practitioners. In addition, primary care research can encourage and support primary care practitioners by studying and disseminating information on effective treatments and organization of care.

There are two areas that a primary care research agenda must address: First, studies on the problems that people present with in primary care; and second, studies on the effective organization and delivery of primary care services.

STUDIES ON THE PROBLEMS THAT PEOPLE PRESENT WITH IN PRIMARY CARE

We need better information about the course of problems at all stages of development.

The growth of knowledge about fully developed diseases and the molecular basis of disease has not been balanced by a similar commitment to an understanding of health, the concerns that bring people to doctors, and the processes whereby people with symptoms become patients with diagnoses. The general problems people present to their doctors are met too often with knowledge based on experience with hospitalized patients and studies from controlled experiments. This may not be at all relevant to the entry level of medical service and treatments. As a result we have health care skewed toward highly technological care for catastrophic illnesses.

Patients come to doctors with clusters of ill-defined symptoms, labelled diseases. They may differ by age, gender, and ethnicity from the narrowly defined groups usually studied in controlled experiments.

Primary care research could provide new tools to primary care practitioners, including improved diagnostic accuracy. Such research can assist in streamlining the diagnostic process and increasing accuracy, while reducing the use of expensive and potentially dangerous medical tests.

It can better inform primary care practices in which a variety of interventions are available, including drugs, education, reassurance, diet, exercise, and watchful waiting.

Research that helps primary care practitioners set rational priorities among competing prevention strategies would greatly improve the effectiveness of clinical prevention in actual practices

Medical research now provides little information about the natural history of many of the more common ailments that afflict people, and is largely silent on the best ways to tailor existing treatments to the needs of the individual. With information of this sort on hand, practitioners can collaborate with patients to design effective treatment plans that reconcile the idiosyncracies of patients and their environments with the realities of the disease process.

STUDIES ON THE EFFECTIVE ORGANIZATION AND DELIVERY OF PRIMARY CARE SERVICES

Our research investment has led to remarkable advances, such as immunizations for the prevention of infectious diseases, cures for several cancers, and successful treatment of hypertension

to prevent heart attacks and strokes. But we need more: We need to know how to organize and provide primary care so that children get immunized, curable cancers are detected early, and care is delivered to vulnerable populations.

The organization and settings in which health care is provided exert substantial influence on the outcomes of that care. We need to know more about the organization and settings of health care that promote or retard the effect of interventions. For example, what do primary care practitioners do when they function as gatekeepers to other services? How might they be used in more fundamental ways to coordinate care and use health care resources more judiciously?

We need to understand why certain individuals do or don't seek care, and the role they think they might play in their own recovery.

The Agency can contribute to progress by considering how to develop a research agenda in each of these areas. In addition, systems needed to train and support primary care researchers could be identified and proposed.

It is my hope that the Agency will address the need for primary care research more methodically in the coming year, and that the Congress will be in a position to offer a higher level of financial support for these expanded responsibilities by the time of our next reauthorization.

By Mr. LEAHY (for himself, Mr. PRYOR, Mr. MITCHELL, Mr. ROCKEFELLER, Mr. RIEGLE, Mr. CHAFEE, Mr. DANFORTH, Mr. KERREY, Mr. WELLSTONE, Mr. ADAMS, Mr. AKAKA, Mr. BINGAMAN, Mr. GRAHAM, Mr. INOUYE, and Mr. JEFFORDS):

S. 3180. A bill to amend the Social Security Act to provide grants for the establishment of State demonstration projects for comprehensive health care reform, and for other purposes; to the Committee on Finance.

STATE CARE ACT OF 1992

Mr. LEAHY. Mr. President, today my good friend from Arkansas, Senator DAVID PRYOR, and I are introducing legislation that gives States the tools they need to try out bold new approaches to providing affordable health care to their citizens.

We are pleased to be joined in this effort by the majority leaders, Senators ROCKEFELLER, RIEGLE, CHAFEE, DANFORTH, KERREY, WELLSTONE, ADAMS, AKAKA, BINGAMAN, GRAHAM, INOUYE, and JEFFORDS.

The State Care Act of 1992 builds on legislation I introduced last year, S. 1972. It is the product of months of negotiations with other Senators and Representatives of States, consumers, businesses, and a broad range of other interested parties. The State Care Act incorporates many of their changes that significantly improve the bill. The bill has been endorsed by the National Governors' Association.

Mr. President, our current health care system needs fundamental change. Skyrocketing costs are hurting families, ruining businesses, and leaving millions of Americans without adequate care.

Generations of proud Vermonters—those who traditionally care for their own families—are now finding that a single illness can wipe out years of hard work and savings.

Universal health care is our goal, and we cannot rest until we have achieved it. I strongly support the majority leader's effort to build consensus on a comprehensive health care reform bill we can move this year.

But in the absence of a national plan, States are moving ahead with their own comprehensive programs to provide affordable health care to their citizens. We cannot afford to discourage them.

It is significant that almost all proposals that offer a comprehensive national solution to our health care crisis recognize the important role States play in successful reform. The majority leader's bill offers States considerable flexibility, as do the bills introduced by our cosponsors, Senators WELLSTONE, KERREY, and CHAFEE.

Earlier this year, I worked with Senator MITCHELL and Senator KENNEDY to include in the HealthAmerica bill the opportunity for States to develop their own innovative approaches to providing affordable health care to their citizens. I strongly believe that State flexibility and innovation will be necessary to ensure the success of any comprehensive national health care plan.

Traditionally, States have played a vital role in shaping this Nation's health and welfare policies. Social Security and child labor standards are just two examples of the many beneficial Federal laws that emanated from the States.

Twenty-four States had parts of the Social Security law on the books before the national act passed in 1935.

Twenty-eight States had child labor laws on the books before Congress passed legislation in 1912.

That tradition continues today as many States tackle the difficult task of reforming their individual health care systems. In this year alone, Vermont, Florida, and Minnesota broke the health care deadlocks in their States and built consensus around programs to provide affordable care to their citizens. Many other States are undertaking similar efforts.

Earlier this year in a Finance Committee subcommittee hearing on State experimentation, the Governor of Hawaii, John Waihee, gave powerful testimony on his State's highly successful health care program. I know that his testimony, and that of my good friend from Florida, Governor Lawton Chiles, contributed significantly to the growing support in Congress for giving States more flexibility in the area of health care reform. Governor Chiles has been a strong ally and I appreciate all that he has done to bolster support for the State Care legislation.

I am particularly proud of Vermont's effort. Under the strong leadership of Governor Howard Dean—the only physician Governor in the country, and the new chair of the National Governors' Association's health care task force—Vermont enacted one of the most sweeping universal access plans yet. The law passed with overwhelming support from both houses of the Vermont Legislature. Many statewide organizations, including the Vermont State Medical Society, backed the plan.

Most importantly, the people of Vermont support the plan, and there is great determination in our small State to push ahead to see that every Vermonter has affordable care by the end of 1994.

But to reach this goal, Vermont and the growing number of other States courageous enough to pioneer universal health care, need support from Washington. Unfortunately, the General Accounting Office and the Employee Benefit Research Institute concluded, in recent reports, that State health care reform initiatives are constrained by Federal statutory and regulatory roadblocks.

That is where our legislation comes in. The purpose of State Care is to remove those roadblocks for States that are committed to overhauling their health care delivery systems.

Through a new Federal commission, our bill sets up a streamlined, "one-stop-shop" waiver approval process that provides narrowly-crafted, but important, waivers from Medicare, Medicaid, and the Employee Retirement Income Security Act [ERISA]. To be eligible for the waivers, States must submit a plan to the Federal commission that is comprehensive, and meets strong access and cost-containment goals. Our bill authorizes up to 10 State demonstrations.

Waiver authority under Medicare will strengthen States' negotiating hand with health care providers. For example, States could develop an all-payor reimbursement system, similar to one used in Maryland, to help contain health care costs. This authority would be extended only to States that continue to provide Medicare services to Medicare beneficiaries.

Our legislation streamlines the existing Medicaid waiver process and expands waiver authority so that States can cover additional low-income, unemployed, or part-time workers. New waiver authority also will allow States to implement innovative reimburse-

ment, cost containment and other reforms. States must continue to provide federally mandated Medicaid services to Medicaid recipients.

With regard to both the Medicare and Medicaid Programs, strong quality assurance provisions are required.

By far, the most important provision in this legislation is the narrowly crafted wavier authority under ERISA that removes one of the greatest roadblocks to reform. Specifically, this legislation enables States to develop a basic benefit package for all without running afoul of ERISA. In addition it provides States the ability, if necessary, to raise funds to support access initiatives by allowing for the establishment of a broad-based revenue raising mechanism.

Mr. President, this bill is not flawless and it is not set in stone. It is our best effort to date to strike a fair balance among interested parties. Senator PRYOR and I will continue to seek the comments of all interested groups in an effort to address outstanding concerns about the bill.

Mr. President, there are many people to thank for their work on the State Care Act. I am grateful to the majority leader for his support and advice in shaping this legislation. He has long been sensitive to the States' concerns in the health care reform debate and his HealthAmerica legislation reflects that sensitivity.

I am pleased that the chairman of the Finance Committee, Senator BENTSEN, intends to hold a hearing in September to further explore State health care reform initiatives and consider the State Care bill. Senator BENTSEN and his staff have contributed significantly to this legislation. I appreciate the technical advice they have given us and their many improvements to the bill. I look forward to continuing our work together on this initiative.

I am delighted that Senator ROCKEFELLER, who has done so much to move the health care reform debate forward, has joined us in this effort. His advice has been and will continue to be invaluable as we refine this legislation.

Senator KERREY and Senator GRAHAM offered their support for this legislation very early in the process and for that I am very grateful. I also want to thank Senator WELLSTONE and his staff for their many helpful suggestions on this legislation. Senator WELLSTONE has provided an important link for us with Minnesotans who are concerned about the success of HealthRight and the MinnesotaCare program.

My friend from Vermont, Senator JEFFORDS, recognizes the importance of the work being done on health care in the States, especially Vermont. I am glad he is a cosponsor of this bill.

Mr. President, I also want to thank the National Governors' Association [NGA] for their tireless efforts on behalf of this legislation. The NGA has forged a strong working relationship with Congress on health care reform issues and I appreciate their many contributions to the bill.

Many other organizations, in particular, Families USA, have lent their expertise and to improving this legislation. We look forward to continuing this working relationship to ensure the strongest bill possible.

Mr. President, finally, I want to thank Senator PRYOR and his staff for their work on this legislation. I could not have asked for a more knowledgeable and skillful partner in this effort. Senator PRYOR is committed to solving the problems that are putting health care out of the reach of America's families, and I commend him for his leadership. It is a privilege to work with him on this initiative.

And Theresa Alberghini of my staff has worked days and nights to help craft this legislation. She cares deeply about the health care crisis and the people of her home State of Vermont. She is a true professional, and deserves much credit for this State Care initiative.

Mr. President, Senator PRYOR and I believe the State Care Act of 1992 works equally well as part of a nationwide comprehensive reform plan or as a way to achieve statewide, comprehensive reforms.

But whatever we do this year, we can no longer stand in the way of States that are committed to providing affordable health care to their citizens.

Mr. President, I ask unanimous consent that the bill, a detailed summary of the legislation, and a letter of support from the National Governors' Association be printed in the RECORD.

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

S. 3180

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 "State Care Act of 1992".

SEC. 2. FINDINGS AND PURPOSES.

(a) FINDINGS.—Congress finds that—

(1) up to 37,000,000 Americans are without health insurance;

(2) health care costs the average American family more than $4,300 a year;

(3) a single serious illness can financially devastate all but the wealthiest families;

(4) preventive medical care is a cost-effective way to reduce medical costs; and

(5) as with Social Security and child labor protections, States can lead the way in testing ideas for national application.

(b) PURPOSE.—It is the purpose of this Act—

(1) to test ways to provide a more equitable, rational, and cost-effective system of health care; and

(2) to remove Federal statutory and administrative barriers that currently block efforts by States to provide health care coverage to individuals residing in such States.

SEC. 3. AMENDMENTS TO SOCIAL SECURITY ACT.

The Social Security Act (42 U.S.C. 301 et seq.) is amended by adding at the end the following new title:

"TITLE XXI—STATE COMPREHENSIVE HEALTH COVERAGE AND COST CONTAINMENT DEMONSTRATION PROJECTS

"TABLE OF CONTENTS OF TITLE

"Sec. 2101. Establishment of State Care demonstration projects.
"Sec. 2102. Establishment of State-Based Comprehensive Health Care Commission.
"Sec. 2103. State health care authority.
"Sec. 2104. Approval of State Care demonstration project grants.
"Sec. 2105. Application for State Care demonstration project grants.
"Sec. 2106. Development and implementation grants.
"Sec. 2107. Payment of expenditures.
"Sec. 2108. Application of certain Federal laws.
"Sec. 2109. Evaluations, monitoring and compliance.
"Sec. 2110. Definitions.

"ESTABLISHMENT OF STATE CARE DEMONSTRATION PROJECTS

"SEC. 2101. There is hereby established a program under which the State-Based Comprehensive Health Care Commission shall select States to participate in demonstration projects designed to provide health care coverage to eligible State residents and to contain health care costs in such States.

"ESTABLISHMENT OF STATE-BASED COMPREHENSIVE HEALTH CARE COMMISSION

"SEC. 2102. (a) ESTABLISHMENT.—

"(1) IN GENERAL.—There is hereby established a State-Based Comprehensive Health Care Commission which shall be composed of—

"(A) the Secretary,

"(B) the Secretary of Labor, and

"(C) 11 members to be appointed by the President, within 90 days of the enactment of this title, by and with the advice and consent of the Senate.

"(2) MEMBERSHIP.—The members of the Commission appointed under paragraph (1)(C) shall include individuals with national recognition for expertise in health insurance, health economics, health care provider reimbursement, and related fields. In appointing individuals, the President shall assure representation of consumers of health services, large and small employers, State and local governments, labor organizations, health care providers, rural areas, and health care insurers.

"(b) TERMS.—The members of the Commission appointed under subsection (a)(1)(C) shall be appointed to serve for terms of 3 years, except that the terms of the members first appointed shall be staggered so that the terms of no more than 4 members expire in any one year. Any individual appointed to fill a vacancy created in the Commission shall be appointed for the remainder of the term of such individual's predecessor.

"(c) DUTIES.—

"(1) GRANTS.—The Commission shall—

"(A) provide guidance to State health care authorities regarding applications for grants under this title and exchange information with, and otherwise assist, such authorities upon the request of the authorities;

"(B) develop a model benefit package that may be used by State health care authorities in applying for a State care demonstration project grant under this title;

"(C) develop guidelines to assist State health care authorities in providing data base infrastructure as described in section 2105(b)(16);

"(D) set application procedures;

"(E) review and approve applications for State Care demonstration project grants under section 2104;

"(F) review and approve applications for development and implementation grants under section 2106;

"(G) provide appropriate levels of funding for such approved applications;

"(H) conduct such evaluation, monitoring, compliance, and other review functions as may be appropriate, including such as are required under section 2109; and

"(I) implement any other requirements or activities necessary and appropriate under this title.

"(2) ANNUAL REPORT.—The Commission shall report annually to the President and the Congress. Such report shall be submitted not later than March 30 of each year and shall include information concerning States that receive grants under this title and the effectiveness of any health care programs assisted by such grants.

"(d) MISCELLANEOUS.—

"(1) AUTHORITY.—The Commission may—

"(A) employ and fix the compensation of an Executive Director and such other personnel (not to exceed 25) as may be necessary to carry out its duties (without regard to the provisions of title 5, United States Code, governing appointments in the competitive service);

"(B) seek such assistance and support as may be required in the performance of its duties from appropriate Federal departments and agencies;

"(C) enter into contracts or make other arrangements, as may be necessary for the conduct of the work of the Commission (without regard to section 3709 of the Revised Statutes (41 U.S.C. 5)); and

"(D) make advance, progress, and other payments which relate to the work of the Commission.

"(2) COMPENSATION.—While serving on the business of the Commission (including traveltime), a member of the Commission appointed under subsection (a)(1)(C) shall be entitled to compensation at the per diem equivalent of the rate provided for level IV of the Executive Schedule under section 5315 of title 5, United States Code, and while so serving away from the member's home and regular place of business, any member appointed under subsection (a)(1) may be allowed travel expenses, as authorized by the Chairperson of the Commission. Physicians serving as personnel of the Commission may be provided a physician comparability allowance by the Commission in the same manner as Government physicians may be provided such an allowance by an agency under section 5948 of title 5, United States Code, and for such purpose subsection (i) of such section shall apply to the Commission in the same manner as such subsection applies to the Tennessee Valley Authority.

"(3) ACCESS TO INFORMATION, ETC.—The Commission shall have access to such relevant information and data as may be available from the Physician Payment Review Commission, the Prospective Payment Assessment Commission, and other appropriate Federal agencies and shall assure that its activities, especially the conduct of original research and medical studies, are coordinated with the activities of such Commissions and Federal agencies. The Commission shall be subject to periodic audit by the General Accounting Office.

"(4) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as may be necessary to carry out this section.

"STATE HEALTH CARE AUTHORITY

"SEC. 2103. (a) ESTABLISHMENT.—A State that desires to receive a grant under section 2104, shall establish a State Health Care Authority as provided in subsection (b) which shall prepare and submit to the Chief Executive Officer and the State legislature of that State a comprehensive recommendation for the State plan described in section 2104(b). The preceding sentence shall not apply to any State which has enacted a State plan described in section 2104(b) within 12 months of the date of the enactment of this title.

"(b) COMPOSITION.—The Authority shall be composed of individuals appointed by the Chief Executive Officer of the State equally from among representatives of—

"(1) health care providers;

"(2) consumers and labor;

"(3) the State health department;

"(4) the State legislative leadership;

"(5) insurance providers operating in the State;

"(6) low-income advocacy organizations;

"(7) senior citizen organizations;

"(8) business, including small business entities and self-employed individuals; and

"(9) other organizations determined appropriate by the Chief Executive Officer.

"(c) REPORT OF STATE HEALTH CARE AUTHORITY.—The Authority shall prepare and submit to the Chief Executive Officer of the State and the legislature of the State, a report containing a copy of the proposed State plan.

"(d) APPROVAL.—The legislature of each State referred to in subsection (c) shall approve the State plan contained in such report or modify such plan as the legislature considers appropriate.

"(e) NOTIFICATION OF THE COMMISSION.—The Chief Executive Officer of a State shall notify the Commission upon the final approval of the report submitted under subsection (c). Each Authority shall coordinate, and exchange information, with the Commission.

"APPROVAL OF STATE CARE DEMONSTRATION PROJECT GRANTS

"Sec. 2104. (a) IN GENERAL.—The Commission shall award State Care demonstration project grants to not more than 10 States which submit applications under section 2105 to enable such States to design and implement demonstration projects to provide health coverage to eligible State residents.

"(b) PERIOD OF APPROVED PROJECT GRANTS.—The period for each State Care demonstration project grant shall be for 5 years from the date of the final approval of the State's application to participate in the demonstration project.

"(c) BASIS OF APPROVAL.—

"(1) IN GENERAL.—The Commission shall approve applications submitted by States under section 2105 that meet the requirements established under this title.

"(2) WAIVERS OF MEDICAID PROVISIONS.—In approving any application, the Commission shall waive, to the extent necessary to conduct each State Care demonstration project, any of the requirements of section 1902 or 1903. Such waivers shall not be granted unless the State plan identifies the necessary waivers as required under section 2105(b)(17) and provides assurances of necessary safeguards and financial accountability as required under section 2105(b)(18).

"(3) CONDITIONAL APPROVALS.—The Commission may approve applications on a conditional basis to provide such time as appropriate to permit the enactment of necessary State legislation.

"(d) COORDINATION AND DEADLINES.—

"(1) INITIAL REVIEW.—The Commission shall complete an initial review of each State Care demonstration project application within 40 days of the receipt of such application, analyze the scope of the proposal, and determine whether additional information is needed from the State. The Commission shall issue a preliminary opinion concerning the likelihood that the application will be approved within such 40-day period and shall advise the State within such period of the need to submit additional information.

"(2) FINAL DECISION.—The Commission shall, within 60 days of the later of—

"(A) the receipt of a State Care demonstration project application, or

"(B) the date on which the Commission receives additional information requested from a State under paragraph (1),

issue a final decision concerning such application.

"(3) COOPERATION.—The Commission shall cooperate and exchange information, to the extent appropriate, with applicant States during the pendency of each State's application.

"(4) ADVICE TO APPLICANTS.—The Commission shall advise applicants as to the basis for any decision of the Commission to reject or approve an application.

"(5) RECONSIDERATION OR APPEAL OF DENIAL.—The provisions of paragraphs (2), (3), (4), and (5) of section 1116(a) shall apply with respect to the decision of the Commission to reject an application.

"(e) DIVERSITY.—To maximize the variety of State Care demonstration projects, the Commission shall give a preference to applicant States that present a wide variety of characteristics, including States—

"(1) from a variety of geographic areas of the United States;

"(2) with a high percentage of the total population living in rural areas;

"(3) with a high percentage of the total population living in urban areas;

"(4) with a large ethnic diversity;

"(5) with very low total population;

"(6) with very large total population; and

"(7) which demonstrate some particular need for such assistance, an especially useful or novel approach to health care, or which present an opportunity to gain valuable information regarding the provision of health care.

"APPLICATION FOR STATE CARE DEMONSTRATION PROJECT GRANTS.

"SEC. 2105. IN GENERAL.—To be eligible to receive a State Care demonstration project grant under this title, a State shall prepare and submit to the Commission an application and State plan meeting the requirements of subsection (b) at such time, in such manner, and containing such general information as the Commission may require.

"(b) STATE PLAN.—A State that desires to receive a State Care demonstration project grant under this title shall prepare and submit, as part of the application, a State plan that shall—

"(1) be in effect in all political subdivisions of the State;

"(2) provide for the availability of benefits and services that are at least equal to the benefits and services of a standard benefit package described in subsection (c)(1) or a basic benefit package described in subsection (c)(2), except that with respect to—

"(A) individuals entitled to benefits under title XVIII, such individuals shall continue to receive such benefits, and

"(B) individuals entitled to medical assistance under a State plan under title XIX as of the date of the enactment of this title, such individuals shall continue to receive benefits and services at least equivalent to the benefits and services required to be included in such State plan under such title;

"(3)(A) estimate the number and percentage of uninsured eligible State residents (as compared to total eligible State residents) on the date of application and describe how the State Care demonstration project will—

"(i) serve at least 95 percent of eligible State residents, or

"(ii) increase by 10 percent the number of eligible State residents served,

by the date on which such demonstration project is scheduled for termination; and

"(B) provide how the remaining uninsured eligible State residents shall be served after such termination;

"(4) provide for the development and implementation of appropriate cost-control mechanisms, such that the annual increase in State-wide health care costs does not exceed the average annual percentage increase in the gross domestic product (in current dollars, as published by the Secretary of Commerce) for the 5-year period ending in the second preceding year, plus—

"(A) for 1994, 3.7 percentage points,

"(B) for 1995, 2.7 percentage points,

"(C) for 1996, 1.7 percentage points,

"(D) for 1997, 0.7 percentage points, and

"(E) for each year thereafter, 0 percentage points;

"(5) provide for budgetary procedures to ensure that a statewide health care budget is established with respect to the benefits and services provided under the State plan;

"(6) describe the public and private sector financing to be provided for the State Care demonstration project;

"(7) estimate the amount of Federal, State and local expenditures as well as costs to business and individuals under the State Care demonstration project;

"(8) describe how the State plan will ensure the financial solvency of the State Care demonstration project;

"(9) provide assurances satisfactory to the Commission that Federal expenditures under the State Care demonstration project shall not exceed—

"(A) with respect to individuals otherwise entitled to benefits under title XVIII, Federal expenditures which would otherwise be made under such title (as in effect on date of the enactment of this title, unless amendments to such title have the effect of increasing Federal expenditures) for each year of such demonstration project (determined without regard to such project), and

"(B) with respect to all other individuals, Federal expenditures which would otherwise be made under title XIX (as in effect on the date of the enactment of this title, unless amendments to such title have the effect of increasing Federal expenditures) during the period of such project (determined without regard to such project);

"(10) include quality control procedures which shall include—

"(A) procedures to ensure that health care providers in the State provide services consistent with practice guidelines developed by the Agency for Health Care Policy and Research; and

"(B) the development and implementation of a program to make information available to educate the general public concerning the availability of comprehensive health insurance in the State;

"(11) require providers of services and insurance policies to meet licensure, certification, and other appropriate standards as established by the State;

"(12) identify all Federal, State, or local programs that currently provide health care services in the State and describe how such programs would be incorporated in the health coverage system implemented by the State under the State plan, to the extent practicable, providing for the consolidation of all Federal, State, and local programs that provide health care services in the State;

"(13) provide for the development and implementation of a State health care delivery system that provides access to care to eligible State residents in areas of the State where there is an inadequate supply of health care providers;

"(14) recommend the manner by which the State will meet the long-term care service needs of chronically ill eligible State residents of all ages;

"(15) provide for a data base infrastructure, under guidelines developed by the Commission under section 2102(c)(1)(C), to gather data on cost, coverage, health care needs, and medical outcomes;

"(16) recommend the manner by which the State will address medical liability issues;

"(17) identify all waivers of the requirements of sections 1902 and 1903 necessary to achieve access and cost containment goals of the State Care demonstration project, with the rationale for the need of each waiver;

"(18) provide assurances satisfactory to the Commission that necessary safeguards (including quality assurance procedures sufficient to ensure a high quality of care) have been taken to protect the health and welfare of eligible State residents provided services under the waivers identified under paragraph (17) and that financial accountability for funds expended with respect to such services shall be maintained; and

"(19) provide for any necessary phase-in or transition procedures, except that the State plan shall be fully implemented not later than 5 years after the date of the approval of the State's application to participate in the demonstration project.

"(c) STANDARD AND BASIC BENEFIT PACKAGES.—

"(1) STANDARD BENEFIT PACKAGE.—

"(A) IN GENERAL.—A State plan providing for a standard benefit package shall be limited to payment for—

"(i) inpatient and outpatient hospital care, except that treatment for a mental disorder is subject to the special limitations described in clause (v)(I);

"(ii) inpatient and outpatient physicians' services, except that psychotherapy or counseling for a mental disorder is subject to the special limitations described in clause (v)(II);

"(iii) diagnostic tests;

"(iv) outpatient prescription drugs;

"(v) preventive services limited to—

"(I) prenatal care and well-baby care provided to children who are 1 year of age or younger;

"(II) well child care;

"(III) Pap smears;

"(IV) mammograms; and

"(V) colorectal screening services; and

"(vi)(I) inpatient hospital care for a mental disorder for not less than 45 days per year, except that days of partial hospitalization or residential care may be substituted for days of inpatient care; and

"(II) outpatient psychotherapy and counseling for a mental disorder for not less than 20 visits per year provided by a provider who is acting within the scope of State law and who is a physician, or is a duly licensed or certified clinical psychologist or a duly licensed or certified clinical social worker, a duly licensed or certified equivalent mental health professional, or a clinic or center providing duly licensed or certified mental health services.

"(B) AMOUNT, SCOPE, AND DURATION OF CERTAIN BENEFITS.—

"(i) IN GENERAL.—Except as provided in clause (ii) and in subparagraph (C), a State plan providing for a standard benefit package shall place no limits on the amount, scope, or duration of benefits described in clauses (i) through (iii) of subparagraph (A).

"(ii) PREVENTIVE SERVICES.—A State plan providing for a standard benefit package may limit the amount, scope, and duration of preventive services described in clause (iv) of subparagraph (A) if the amount, scope, and duration of such services are reasonably consistent with recommendations and periodicity schedules developed by appropriate medical experts.

"(C) EXCEPTIONS.—Subparagraph (A) shall not be construed as requiring a State plan to include payment for—

"(i) items and services that are not medically necessary or not medically accepted;

"(ii) routine physical examinations or preventive care (other than care and services described in clause (iv) of subparagraph (A)); or

"(iii) experimental services and procedures.

"(D) LIMITATION ON PREMIUMS.—A State plan providing for a standard benefit package shall not require an individual to pay a monthly premium which exceeds 20 percent of the total monthly premium.

"(E) LIMITATION ON DEDUCTIBLES.—

"(i) IN GENERAL.—Except as permitted under clause (ii), a State plan providing for a standard benefit package shall not provide a deductible amount for benefits provided in any plan year that exceeds—

"(I) with respect to benefits payable for items and services furnished to any individual with no family member enrolled under the plan, for a plan year beginning in the first year of the State Care demonstration project, $400, or for a subsequent calendar year, the limitation specified in this subclause for the previous calendar year increased by the percentage increase in the consumer price index for all urban consumers (United States city average, as published by the Bureau of Labor Statistics) for the 12-month period ending on September 30 of the preceding calendar year; and

"(II) with respect to benefits payable for items and services furnished to any individual with a family member enrolled under the standard benefit package, for a plan year beginning in the first year of the State Care demonstration project, $400 per family member and $700 per family, or for a subsequent calendar year, the limitation specified in this subclause for the previous calendar year increased by the percentage increase in the consumer price index for all urban consumers (United States city average, as published by the Bureau of Labor Statistics) for the 12-month period ending on September 30 of the preceding calendar year.

If the limitation computed under such subsequent calendar year under subclause (I) or (II) is not a multiple of $10, it shall be rounded to the next highest multiple of $10.

"(ii) WAGE-RELATED DEDUCTIBLE.—A State plan may provide for any other deductible amount instead of the limitations under—

"(i) clause (i)(I), if such amount does not exceed (on an annualized basis) 1 percent of the total wages paid to the individual in the plan year; or

"(ii) clause (i)(II), if such amount does not exceed (on an annualized basis) 1 percent per family member or 2 percent per family of the total wages paid to the individual in the plan year.

"(F) LIMITATION ON COPAYMENTS AND COINSURANCE.—

"(i) IN GENERAL.—Subject to clauses (ii) through (iv), a State plan providing for a standard health benefit package may not require the payment of any copayment or coinsurance for an item or service for which coverage is required under this subsection—

"(I) in an amount that exceeds 20 percent of the amount payable for the item or service under the plan; or

"(II) after an individual and family covered under the plan have incurred out-of-pocket expenses under the plan that are equal to the out-of-pocket limit (as defined in clause (v)(II)) for a plan year.

"(ii) EXCEPTION FOR MANAGED CARE PLANS.—A State plan that is a managed care plan may require payments in excess of the amount permitted under clause (i) in the case of items and services furnished by nonparticipating providers.

"(iii) EXCEPTION FOR IMPROPER UTILIZATION.—A State plan may provide for copayment or coinsurance in excess of the amount permitted under clause (i) for any item or service that an individual obtains without complying with procedures established by a managed care plan or under a utilization program to ensure the efficient and appropriate utilization of covered services.

"(iv) EXCEPTIONS FOR MENTAL HEALTH CARE.—In the case of care described in subparagraph (A)(v)(II), a State plan shall not require payment of any copayment or coinsurance for an item or service for which coverage is required by this title in an amount that exceeds 50 percent of the amount payable for the item or service.

"(G) LIMIT ON OUT-OF-POCKET EXPENSES.—

"(i) OUT-OF-POCKET EXPENSES DEFINED.—As used in this subsection, the term 'out-of-pocket expenses' means, with respect to an individual in a plan year, amounts payable under the State plan as deductibles and coinsurance with respect to items and services provided under such plan and furnished in the plan year on behalf of the individual and family covered under such plan.

"(ii) OUT-OF-POCKET LIMIT DEFINED.—As used in this subsection and except as provided in clause (iii), the term 'out-of-pocket limit' means for a plan year beginning in—

"(I) the first year of the State Care demonstration project, $3,000, or

"(II) for a subsequent calendar year, the limit specified in this clause for the previous calendar year increased by the percentage increase in the consumer price index for all urban consumers (United States city average, as published by the Bureau of Labor Statistics) for the 12-month period ending on September 30 of the preceding calendar year. If the limit computed under subclause (II) is not a multiple of $10, it shall be rounded to the next highest multiple of $10.

"(iii) ALTERNATIVE OUT-OF-POCKET LIMIT.—A State plan may provide for an out-of-pocket limit other than that defined in clause (ii) if, for a plan year with respect to an individual and the family of the individual, the limit does not exceed (on an annualized basis) 10 percent of the total wages paid to the individual in the plan year.

"(H) LIMITED PREEMPTION OF STATE MANDATED BENEFITS.—No State law or regulation in effect in a State that requires health insurance plans offered to small employers in the State to include specified items and services other than those specified in this paragraph shall apply with respect to a State plan providing a standard benefits package. A State law or regulation requiring the coverage of newborns, adopted children, or other specified categories of dependents shall continue to apply to such State plan.

"(I) DEFINITIONS.—For purposes of this paragraph—

"(i) MENTAL DISORDER.—The term 'mental disorder' has the meaning given such term in the International Classification of Diseases, 9th Revision, Clinical Modification.

"(ii) PHYSICIAN SERVICES.—The term 'physician services' means professional medical services lawfully provided by a physician under State medical practice laws, and includes professional services provided by a dentist, licensed advanced-practice nurse, physician assistant, optometrist, podiatrist, or chiropractor acting within the scope of their practices (as determined under State law) if such services would be treated as physician services if furnished by a physician.

"(iii) OUTPATIENT PRESCRIPTION DRUGS.—

"(I) IN GENERAL.—The term 'outpatient prescription drug' means any drug or biological that has been approved for marketing by the Food and Drug Administration or the medically accepted indications of such drug or biological, which has been ordered by prescription pursuant to State law by a physician (or other practitioner authorized pursuant to State law to issue prescriptions).

"(II) EXCEPTION.—The term 'outpatient prescription drug' does not include any drug or biological provided incident to or part of another medical service for which reimbursement for such drug or biological is made as part of the total payment for such service.

"(III) MEDICALLY ACCEPTED INDICATIONS.—The term 'medically accepted indications' means the use of a drug or biological that has been approved for marketing by the Food and Drug Administration which is accepted in either the American Hospital Formulary Service, the United States Pharmacopoeia—Drug Information, or the American Medical Association—Drug Evaluations.

"(2) BASIC BENEFITS PACKAGE.—

"(A) IN GENERAL.—A State plan providing for a basic benefit package shall be limited to payment for—

"(i) inpatient and outpatient hospital care, including emergency services;

"(ii) inpatient and outpatient physicians' services;

"(iii) diagnostic tests;

"(iv) preventive services, which may include one or more of the following:

"(I) prenatal care and well-baby care provided to children who are 1 year of age or younger;

"(II) well-child care;

"(III) Pap smears;

"(IV) mammograms; and

"(V) colorectal screening services.

"(B) COST-SHARING.—A State plan providing for the basic benefit package may impose premiums, deductibles, copayments, or other cost-sharing on enrollees of such plan.

"(C) OUT-OF-POCKET LIMIT.—A State plan providing for a basic benefit package shall provide for a limit on out-of-pocket expenses.

"(D) LIMITED PREEMPTION OF STATE MANDATED BENEFITS.—No State law or regulation in effect in a State that requires health insurance plans offered to small employers in the State to include specified items and services other than those described in this paragraph shall apply with respect to a State plan providing for a basic benefit package. A State law or regulation requiring the coverage of newborns, adopted children, or other specified categories of dependents shall continue to apply to such State plan.

"DEVELOPMENT AND IMPLEMENTATION GRANTS

"SEC. 2106. (a) IN GENERAL.—The Commission shall establish procedures permitting the Chief Executive Officer of any State applying for a State Care demonstration project grant under this title to include in the application a request for a grant to enable the State—

"(1) to establish a date base infrastructure necessary to measure and evaluate the success of the State plan described in section 2105(b) in achieving cost containment and access goals; and

"(2) to consolidate health care budgeting, regulating, financing, and delivery responsibilities of the State.

"(b) APPROVAL OF DEVELOPMENT AND IMPLEMENTATION GRANTS.—In determining the amount of each development and implementation grant, the Commission shall consider the need of the State receiving approval of a State Care demonstration project grant under section 2104 for startup funds to accomplish the goals under subsection (a).

"(c) AMOUNT OF GRANTS.—The amount of any development and implementation grant awarded under this section shall not exceed $2,000,000 per State.

"(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section, such sums as may be necessary for each of the fiscal years 1993 through 1996.

"PAYMENT OF EXPENDITURES

"SEC. 2107. (a) NO PAYMENTS MADE UNDER MEDICARE AND MEDICAID.—Notwithstanding any other provision of law, no payment may be made during a year under title XIX for services provided to or on behalf of residents of a State receiving approval of a State Care demonstration project grant under this title for each year of such project if payment for such services may be made to or on behalf of such individuals during the year under a State plan.

"(b) PAYMENTS TO PARTICIPATING STATES.—The Secretary shall pay each State receiving approval of a State Care demonstration project grant under this title for each year of such project (on such a periodic basis as approximates the periods for which payments are made under title XIX) an amount equal to the amount of any payments that, as a result of subsection (a), were not made under title XIX during the year because payment was made to or on behalf of residents of the State during the year under the State plan.

"APPLICATION OF CERTAIN FEDERAL LAWS

"SEC. 2108. With respect to any State Care demonstration project approved by the Commission, the following Federal laws shall be applied in the following manner:

"(1) MEDICARE.—In section 1886(c)—

"(A) strike 'Secretary' each place it appears and insert 'Commission';

"(B) in paragraph (1)(C), strike '36-month' and insert '60-month';

"(C) strike the matter in paragraph (1) following subparagraph (E);

"(D) strike paragraph (2) and insert the following:

'(2)(A) The Commission shall, not later than 90 days after the end of each 12-month period of a State waiver under this subsection, on the basis of the best information available at that time (and may, at later times, as it finds appropriate in light of additional data)—

'(i) estimate the difference for such period, if any, between—

'(I) actual payments under this title to hospitals in the State, and

'(II) projected payments under the State's hospital reimbursement control system at the time the waiver was approved, and

'(ii) project, on the basis of such estimate, the excess, if any, for the entire period of the waiver of the amount described in clause (i)(I) over the amount described in clause (i)(II).

'(B) The Commission shall notify the State of the results of the calculations under subparagraph (A). Where those calculations indicate that substantial overpayments would be made to hospitals in a State by the conclusion of the waiver period, the Commission, in order to prevent such result, may—

'(i) permit the State to make modifications in the system subject to the waiver, consistent with the provisions of this subsection, or

'(ii) adjust payments to hospitals in the State as the Commission deems necessary, where the State fails to make modifications in its system, or where the Commission concludes that the State's modifications are insufficient.';

"(E) in paragraph (3), insert before the period ', and cannot be met by modification of the State system or adjustment of payments pursuant to paragraph (2)';

"(F) strike paragraph (4), and redesignate paragraphs (5) and (6) as paragraphs (4) and (5), respectively; and

"(G) strike paragraph (5), as so redesignated, and insert the following:

'(5)(A) If the Commission determines, after the conclusion of the 60-month waiver period, that the assurances described in paragraph (1)(C) have not been met, the Commission shall notify the State of the amount by which the payment under this title under such system for such period exceeded the amount of payments which would otherwise have been made under this title.

'(B) Not later than 90 days after receiving the notification required under subparagraph (A), the State shall furnish to the Commission a plan for reduction of payments to hospitals in the State which shall—

'(i) be consistent with the provisions of paragraph (5) and of subparagraphs (A), (B), (D), and (E) of paragraph (1);

'(ii) provide a formula for reductions totaling an amount equal to the total overpayments determined pursuant to subparagraph (A); and

'(iii) meet such other criteria as the Commission may establish.

'(C) The Commission shall reduce payments under this title to hospitals in the State—

'(i) in accordance with the plan furnished by the State meeting the requirements of subparagraph (B), or

'(ii) if no such plan is furnished, in amounts equaling, for each hospital in the State, the total amount of the overpayment to such hospital determined pursuant to subparagraph (A).'.

"(2) ERISA.—

"(A) In order to allow financing authority used to—

"(i) collect assessments for purposes of equalizing contributions across health care plans, and

"(ii) provide subsidies to individuals without insurance or who are difficult to insure, section 514(b) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1144(b)) includes the following paragraph:

"(9) Nothing in this section shall be construed to preempt any State law which causes equitable fees, taxes, charges, or other payments to be paid by employers, providers, or other entities, even if the incidence of such payments may eventually be imposed on employee benefit plans, as long as such incidence is not solely on such plans or on goods or services purchased exclusively by such plans."

"(B) Any provision of such Act relating only to health care benefits shall not be construed to prohibit—

"(i) State requirements that set forth the manner and contents of a standard benefit package offered or provided by an employer, except that such requirements shall not apply to any employee benefit plan that is not fully insured or is a plan for which State laws would otherwise be preempted under section 514 of such Act, if such plan has a benefit package for which the employer's per-employee contribution is determined by the Commission to be equivalent within such State to a national average value of at least $1,250 for an individual and $2,500 for a family (indexed to such State's wage growth);

"(ii) the development and implementation of a common administrative procedure, an electronic claims processing procedure, a hospital and other health care provider data collection mechanism, and a utilization review, quality assurance, and medical outcomes mechanism; and

"(iii) a negotiated health care provider reimbursement rate system.

"EVALUATIONS, MONITORING AND COMPLIANCE

"Sec. 2109. (a) EVALUATIONS.—

"(1) PERIODIC REPORTS.—The Commission shall prepare and submit to the Committee on Finance and the Committee on Labor and Human Resources of the Senate and the Committee on Energy and Commerce and the Committee on Ways and Means of the House of Representatives periodic reports that shall contain—

"(A) a description of the effects of the reforms undertaken in States participating in State Care demonstration projects under this title;

"(B) an evaluation of the effectiveness of such reforms in—

"(i) providing universal health care coverage for eligible State residents;

"(ii) providing health care to eligible State residents with special needs;

"(iii) reducing or containing health care costs in the States; and

"(iv) improving the quality of health care provided in the States;

"(B) recommendations regarding the advisability of increasing Federal financial assistance for State comprehensive health care reform initiatives, including the amount and source of such assistance; and

"(C) recommendations regarding the appropriation of additional funds for applications for State Care demonstration project grants which do not meet the requirements of section 2105(b)(8), but which are meritorious and deserving of approval.

"(2) REPORT ON CONTINUED FINANCING.—Not later than the date which is 4 years after the approval of the first application for a State Care demonstration project grant under this title, the Commission shall prepare and submit to the Committee on Finance and the Committee on Labor and Human Resources of the Senate and the Committee on Energy and Commerce and the Committee on Ways and Means of the House of Representatives a report containing recommendations (including appropriate legislative proposals) for the continuation of Federal financing of State plans approved under this title, including any request for additional authorization to extend the demonstration projects considered by the Commission to be successfully accomplishing the goals of this title.

"(3) REPORT ON NATIONAL PLAN.—Not later than the date which is 5 years after the approval of the first application for a State Care demonstration project grant under this title, if no national, comprehensive health care system has been established, the Commission shall prepare and submit to the President, the Committee on Finance and the Committee on Labor and Human Resources of the Senate, and the Committee on Energy and Commerce and the Committee on Ways and Means of the House of Representatives a report containing recommendations (including appropriate legislative proposals) on establishing a national health plan which utilizes the experiences of the State Care demonstration projects.

"(b) MONITORING AND COMPLIANCE.—

"(1) ANNUAL REPORTS.—Each State with respect to which an application under section 2105 has been approved under section 2104 shall submit to the Commission an annual report detailing compliance with the requirements of this title.

"(2) CORRECTIVE ACTION PLAN.—If a State is not in compliance, the Commission shall develop, in conjunction with all the approved States, a corrective action plan.

"(3) TERMINATION.—For good cause, the Commission may revoke any waiver of Federal law granted under section 2104, and if necessary, may terminate any State Care demonstration project. Such decisions shall be subject to a petition for reconsideration and appeal pursuant to the provisions of paragraphs (2), (3), (4), and (5) of section 1116(a).

"DEFINITIONS

"Sec. 2110. As used in this title:

"(1) COMMISSION.—The term 'Commission' means the State-Based Comprehensive Health Care Commission established under section 2102.

"(2) ELIGIBLE STATE RESIDENT.—The term 'eligible State resident' means any citizen of the United States, or any lawful resident alien, who resides in any particular State.

"(3) LAWFUL RESIDENT ALIEN.—The term 'lawful resident alien' means an alien lawfully admitted for permanent residence and any other alien lawfully residing permanently in the United States under color of law, including an alien granted asylum or with lawful temporary resident status under section 210, 210A, or 245A of the Immigration and Nationality Act.

"(4) SECRETARY.—The term 'Secretary' means the Secretary of Health and Human Services.

"(5) STATE.—The term 'State' means a State, the District of Columbia, the Commonwealth of Puerto Rico, the United States Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands.

"(6) AUTHORITY.—The term 'Authority' means, with respect to a State, the State Health Care Authority established in accordance with section 2103.

"(7) STATE PLAN.—The term 'State plan' means a comprehensive health care plan of a State participating in a State Care demonstration project under this title that meets the requirements of section 2105(b).".

SUMMARY OF MAJOR PROVISIONS, THE STATE ROLE IN COMPREHENSIVE HEALTH CARE REFORM, THE STATE CARE ACT

PURPOSE

To encourage and assist state-based comprehensive health care reform efforts by de-

veloping a streamlined and expanded "one-stop-shop" waiver approval process that removes overly burdensome administrative, regulatory and statutory Medicare, Medicaid and ERISA (Employment Retirement Income Security Act) requirements.

1. STATUTORY AUTHORITY

Adds new Title to the Social Security Act establishing demonstration projects.

2. WAIVER AUTHORITY

Establishes a Federal Commission to review, approve and oversee State Care demonstration projects. The President will appoint, and the Senate shall confirm, members of the Commission. The Commission will be made up of representatives of: consumers of health services, small and large employers, state and local governments, labor organizations, health care providers, health care insurers, experts on the development of medical technology, as well as the Secretaries of Labor and Health and Human Services.

3. STATE CARE DEMONSTRATION GRANT APPLICATIONS

Establishes standards for approval of up to ten state demonstrations. Each application must have:

Statewide applicability.

Universal access for state residents, as defined by the state having to increase, by the end of the five-year period, the percentage of the insured to at least 95 percent of the population or increase the population of insured by 10 percentage points. (For example, from 82 percent to 92 percent; the 10 percentage point increase clause is designed to be fairer to states with higher numbers of uninsured.) States applying would also submit a plan outlining how any remaining uninsured would be covered following the conclusion of the 5 year demonstration.

Effective cost containment mechanisms that assure that health care inflation within the state does not exceed the average annual percentage increase in the gross domestic product plus 3.7% for 1994, 2.7% for 1995, 1.7% for 1996, .7 for 1997, and for each year therafter, 0 percentage points.

Federal budget neutrality over the five year demonstration period, although need not be budget neutral in individual years as it relates to Medicaid. In no year, however, can Medicare spending exceed projected expenditures under current law. (Constant and Possibly Improved Federal Funding Stream: States that have approved comprehensive health reform plans will be assured of at least the same Federal Medicaid match as would have otherwise been made over the five year period. As a result, any future Federal savings from Medicaid cuts/policy changes/reforms for that state would accrue to that state's benefit.)

Inclusion of a common benefit package which is at least equal to one of the two benefit packages (standard—with Rx drugs and basic) included in S. 1872 and which requires the inclusion of certain preventive services. Preventive and primary care services should be emphasized.

No alteration of Medicare benefits and mandated Medicaid services to required populations.

Strong quality assurance provisions for both the Medicare and the Medicaid programs.

Provider licensing, quality control/assurance procedures, and transition procedures.

Specific recommendations as to how state will meet long-term care service needs of chronically ill citizens of all ages.

Specific recommendations as to how state will address its medical liability issue.

Working in conjunction with the Commission, a health care data base/infrastructure to gather data on cost, coverage, resources (i.e., availability and distribution of health care personnel and technology), health care needs, and medical outcomes.

A list of all Federal waivers necessary to achieve access and cost containment goals identified, with rationale for needing such waivers.

4. STATE REFORM PLAN DEVELOPMENT AND APPROVAL PROCESS

Requires states developing State Care demonstration projects to do so through a State Health Care Authority, or some equivalent body, composed of representatives of affected interests, including small and large business, consumers and labor, health care providers, insurers, state legislative leadership and other organizations determined appropriate by the governor.

States that have enacted comprehensive health care laws within 12 months of enactment of this legislation are exempted from this provision.

Requires state legislative approval of its comprehensive reform plan.

5. DEVELOPMENT AND IMPLEMENTATION GRANTS

The Commission is authorized to provide up to $2 million per approved state for one or more of the following purposes:

1. Establishment of infrastructure necessary to measure and evaluate success in achieving cost containment and access goals; and/or

2. Consolidation of health care budgeting, regulating, financing, and delivery responsibilities of state.

6. APPROVAL OF DEMONSTRATION PROJECTS

The Commission will give preference to state applicants that present a wide variety of characteristics, including states:

from a variety of geographic areas

with a high percentage of the total population living in rural areas

with a high percentage of the total population living in urban areas

with large and diverse ethnic populations

with large and small populations of people which demonstrate an especially useful or novel approach to health care financing and delivery.

The Commission will provide for timely approval of demonstration projects. Specifically, the initial review by the Commission must be completed within 40 days of the original receipt of application. At that time, the Commission will notify the state about likely final approval status of application and request any additional information necessary to improve likelihood for approval. Final decision by Commission will be made within 60 days of receipt of additional state information following initial review.

7. MEDICARE, MEDICAID AND ERISA WAIVERS

For states with approved applications, the Commission has the authority to waive certain requirements and/or other provisions of Medicare, Medicaid and the Employment Retirement Income and Security Act (ERISA) for the entire period of the demonstration (five years). More specifically, with regard to this streamlined and expanded waiver process:

1. Medicare: Affirms and assures states' ability to utilize Medicare waivers to strengthen the negotiating hand of the states with its health care providers. (E.G., an all payors mechanism, similar to the Maryland model, could be used and expanded for containing provider costs). Again, no alteration of benefits would be permitted.

2. Medicaid: Eliminate complex applications and renewal processes within the Medicaid program for existing waivers. In addition, expand Medicaid waiver authority to allow states to implement innovative reimbursement, service delivery, cost containment, and other reforms.

3. ERISA: In order to provide necessary financing and regulatory flexibility to states committed to comprehensively addressing cost containment and access problem, a narrowly crafted ERISA waiver authority would be granted by the Commission to qualifying states. Specifically, eligible states would not have the following reform provisions of a state law preempted by current ERISA law:

A. Financing authority used to:

1. Collect assessments for purposes of equalizing contributions across health care plans.

2. Provide subsidies to persons without insurance and/or who are difficult to insure.

Current language: "Section 524(b) of ERISA is amended by adding: "(9) Nothing in this section shall be construed to preempt state laws which cause equitable fees, taxes, charges, or other payments to be paid by employers, providers, or other entities; even though the incidence of such payments may eventually be on employee benefit plans; so long as the incidence of such payments is not solely on employee benefit plans, or solely on goods or services purchased exclusively by employee benefit plans."

B. Requirements that set forth the manner and contents that a standard benefit package is offered or provided by employers. A self-insured benefit plan (both multi-state and in-state) would be exempted from fulfilling requirement of this standard benefit if it meets a minimum per-employee dollar value standard. Specifically:

A state standard benefit package would not apply to an employee benefit plan "that is not fully insured (self-insured) and that is a plan for which state laws would otherwise be preempted under Section 514, provided that such employee benefit plan has a benefit package for which the employer's per-employee contribution is determined by the Commission to be equivalent within that state of a national average value of at least $1,250 for an individual and $2,500 for a family (indexed to the State's wage growth)."

C. The development and implementation of a common administrative procedure (i.e., uniform claims forms and billing systems), an electronic claims processing procedure, hospital and other health care provider data collection mechanism, and a utilization review, quality assurance, and medical outcomes mechanism.

D. Negotiated health care provider reimbursement rate/system.

E. This waiver authority could only apply to health benefits and no other ERISA preemptions, such as pension and non-health welfare benefits, could be waived.

8. EVALUATIONS, MONITORING AND COMPLIANCE

Approved states shall submit an annual report on their progress in meeting the cost containment and access requirements detailed in their plan. For states who are not meeting plan requirements, the Commission shall develop, in conjunction with the states, a corrective action plan. For good cause, the Commission has the authority to revoke waivers and terminate demonstrations. Should the Commission choose to take this course of action, states may ask for reconsideration within 30 days of announcement of proposed termination. The Commission then has 30 days to make final decision.

9. COST

As previously mentioned, the State Care plan is subjected to strict annual Federal

budget neutrality as it applies to Medicare, and Medicaid expenditures will be no more than the current projected amount over the period of demonstration. (States may use savings derived from the changes in the Medicaid program for use in expanding coverage, to the extent that the overall Medicaid expenditures for the duration of the demonstration are no greater than what they would have been without the demonstration.)

Commission is directed to make recommendations about advisability of increasing Federal financial assistance for state comprehensive health care reform initiatives, and to make recommendations with regard to the amount and source of financing.

For states who have submitted a State Care application which does not meet the Federal budget neutrality provisions described previously, and for whom the Commission views the application as meritorious and deserving of approval, the Commission is directed to make a specific recommendation to the Congress for the appropriation of additional funds for this project. (Nothing in this section precludes a state from directly petitioning Congress for financial support for their program.)

10. OTHER RESPONSIBILITIES OF FEDERAL COMMISSION

The Commission is required to develop a model benefit package that could be used by states applying for this demonstration.

The Commission is required to develop guidelines for a health care data base/infrastructure to gather information on cost, coverage, resources (i.e., availability and distribution of health care personnel and technology), health care needs, and medical outcomes.

If, at the conclusion of the 5-year demonstration, no national, comprehensive health care system has been established, the Commission is required to make specific recommendations to the President and the Congress on establishing a national health plan, which utilizes the experiences of the state demonstrations.

Note.—This proposal builds on S. 1972, the State-Based Comprehensive Health Care Act, which was introduced by Senator Leahy in 1991. Senators Leahy and Pryor will introduce new legislation based on this proposal, and which incorporates the comments and suggestions of representatives of states, consumers, businesses, and a broad range of other interested parties, in the near future.

NATIONAL GOVERNORS' ASSOCIATION,
Washington, DC, August 12, 1992.

Hon. PATRICK J. LEAHY,
U.S. Senate,
433 Senate Russell Office Building,
Washington, DC.

DEAR SENATOR LEAHY: On behalf of the National Governors' Association, we support the legislation introduced by you and Senator Pryor that would assist states in developing and implementing state-based comprehensive health care reform initiatives.

As you are well aware, Oregon, Hawaii, Florida, Minnesota, and your home state of Vermont have taken important steps toward changing their health care systems by enacting and implementing state-based health reform strategies. In the next year we expect several more states to develop such comprehensive approaches. States are poised to move. However, most are prevented from making significant progress because of various federal statutes and regulations that limit state action. States cannot make the sweeping changes necessary without the help of Congress.

At a meeting with you and other members of Congress last June, Governors talked about the need for a state and federal partnership. We are pleased to see that your legislation recognizes that important relationship. Moreover, you have captured an essential component of the partnership—state flexibility and accountability within a vision of comprehensive health care. You and Senator Pryor are to be congratulated.

Waiver authority is key to affecting the needed changes. The legislation establishes streamlined waiver authority in Medicaid and Medicare and gives states the authority to test strategies that are currently precluded under the Employee Retirement Insurance Security Act (ERISA). Without such authority states cannot be expected to meet the goal of a comprehensive plan.

The legislation also removes a significant roadblock to state reform by establishing a commission that will facilitate the waiver approval process as well as give states a single place to secure waivers and receive technical assistance in the development of their demonstration applications. We believe that this is significant.

The National Governors' Association supports the legislation; however, several Governors have expressed concern about certain provisions. For example, ten demonstrations might be too few and federal cost neutrality over the five-year waiver period may be too limiting. We look forward to working with you in the next few weeks to address these concerns. Finally, you have crafted a careful balance between state flexibility and accountability. If this legislation is to have its intended effect, that flexibility must not be eroded.

The nation's Governors are committed to making quality health care affordable and available to all. We believe that through this legislation you have reaffirmed your commitment to that goal as well. We thank you for all of your efforts and look forward to working with you and other members of Congress to assure that this legislation becomes law.

Sincerely,

Gov. ROY ROMER,
Chairman, National Governors' Association.
Gov. HOWARD DEAN,
Cochairman, Task Force on Health Care.
Gov. George S. Mickelson,
Cochairman, Task Force on Health Care.

Mr. PRYOR. Mr. President, today I am pleased to join my friend and esteemed colleague from Vermont, Senator LEAHY, in introducing legislation to provide needed flexibility to States which are committed to comprehensively reforming their health care systems. We are honored to be joined in this effort by the majority leader, Senator ROCKEFELLER, Senator RIEGLE, Senator CHAFEE, Senator DANFORTH, Senator KERREY, Senator WELLSTONE, Senator ADAMS, Senator AKAKA, Senator BINGAMAN, Senator GRAHAM, Senator INOUYE, and Senator JEFFORDS.

Mr. President, everyone of us in this body is struggling to find a workable solution to the overwhelming health care challenges that confront our Nation. No one is satisfied with, or accepting of, the status quo.

There is no question that we must find a way to achieve nation-wide, comprehensive reform of our health care system. Following Senator MITCHELL's lead, I remain committed to developing and passing a workable and comprehensive national health care reform initiative at the earliest possible moment.

Unfortunately, to date, we have not been able to achieve consensus on a comprehensive health care reform package that the President will sign into law. It is fascinating to note, however, that there is a common thread that runs throughout virtually every significant health care reform proposal before us. Despite the differing and numerous alternative approaches, every proposal provides for a significant amount of State flexibility and responsibility. This is the case with the Mitchell/Kennedy/Rockefeller/Riegle bill; it is the case with Senator KERREY's bill; it is the case with Senator WELLSTONE's bill; and it is the case with the Republican Health Care Task Force bill, whose primary author is the chairman of the task force, Senator CHAFEE. I am pleased to say that every one of the primary sponsors of these bills is joining with Senator LEAHY and me in introducing our legislation today.

Why is it that the major health care initiatives emerging from both sides of the aisle all assure a significant State role? I believe the answer is twofold. First, all of us want to ensure that our health care system is more accountable and responsive to local desires and needs. Second, and probably at least as important, it is because the States and their Governors have been the ones who have succeeded in progressing from talking about the problem to actually acting to solve it. In fact, more than 15 States are working on massive system-wide restructuring. At least four States have actually passed legislation that begins to implement massive overhauls of their health care systems.

Unlike the Federal Government, these States have sought and, to the extent possible, achieved consensus within their own borders. These achievements were not accomplished without controversy. They were also not achieved without political risk, leadership, and courage. Most importantly, though, they were achieved.

Unfortunately, according to a June 1992 General Accounting Office report, many if not all of the State health care reform initiatives cannot be successfully implemented without the removal of certain Federal statutory barriers. In effect, therefore, our Federal inaction is not the only barrier to providing affordable health care to our citizens; current Federal law actually provides a significant roadblock as well.

The purpose of the legislation we are introducing today is to remove those roadblocks for States that are committed to overhauling their health care de-

livery systems. Through a new Federal commission, our bill sets up a streamlined, "one-stop-shop" waiver approval process that provides narrowly crafted, but important, waivers from Medicare, Medicaid, and the Employee Retirement Income Security Act [ERISA]. These waivers are absolutely necessary to the success of state-based comprehensive health care reform efforts.

To be eligible to receive the waivers, States must submit a plan to the Commission that is comprehensive, and meets strong access, cost-containment, and quality assurance criteria. States also must continue to provide Medicare services to the Medicare population and federally-mandated Medicaid services to Medicaid recipients.

Mr. President, we have worked for months with representatives of consumers, States, small and large businesses, and many others in developing this legislation. While our bill is not flawless, we believe it moves a long way toward striking a fair and reasonable balance between interested parties. Having said this, as we have been in the months prior to today's introduction, we remain open to constructive suggestions. In fact, we sincerely hope that our introduction of this bill will be taken as an open invitation for comments and suggested improvements.

To further the debate on this issue, I am particularly pleased that the chairman of the Finance Committee, Senator BENTSEN, is planning on holding a hearing on State-based health care reform initiatives in September. I would like to take this opportunity to thank Senator BENTSEN and his staff for the encouragement and technical support they have given me and my staff throughout the development of this bill.

Mr. President, there is no question that there will be those who will oppose this effort. They will cite a number of reasons, but I fear the real reason is that their second choice for health care reform is to do nothing. I do not believe we can accept or condone this position.

The first choice for restructuring our health care system, including the first choice of almost every Governor, is that the Federal Government meet the need for national comprehensive reform. However, if a divided Government ensures that we cannot gain consensus on the national reforms we so desperately need, we simply cannot continue to hold the States hostage to our gridlock.

Mr. President, it is essential to remember, though, that this bill can, in some respects, work out as being the first choice of practically everyone. First, it can work to fill in some of the details of the previously introduced nationally, comprehensive initiatives. Second, waivers are not granted in any case unless the State-based effort is comprehensive in nature. Finally, while holding the States accountable for comprehensive, affordable, quality, accessible health care, it does not direct the States as to how they must achieve these criteria. In other words, advocates of single-payer approaches, advocates of employer-based approaches, and advocates of everything around and between might well see their approach embodied in one of the States' comprehensive efforts.

Mr. President, regardless of the approach, I cannot and I will not continue to look into the eyes of the Governors committed to comprehensive health care reforms and say, "Sorry, because we don't have a national solution, there can be no solution." If an individual State can come up with a program that assures access to quality, affordable health care to its citizens, who are we to stand in the way?

I have long felt that we, as representatives of the Federal Government, are all-too-frequently negative and overly paternalistic to State-born reform initiatives on almost any issue. Sometimes it seems that if the idea isn't ours, we always find a way to show that it somehow isn't good enough. Well, when it comes to health care reform, at least to date, we have not come up with anything better than what many of the States are offering. To the contrary, we have as yet to produce anything approximating comprehensive reform.

There is broad-based and bipartisan support for this important initiative. I am particularly pleased to report that, despite the fact that the Governor—like everyone else—were forced to compromise on many issues of importance to them, the National Governors' Association [NGA] has indicated its support of this bill. I would like to thank the NGA, as well as the Democratic Governors' Association, for their thoughtful and constructive suggestions.

Many other organizations, in particular, Families USA, have also been extremely helpful. I look forward to working with all interested parties to assure we have the strongest package possible.

I am also extremely pleased to note that Congressman WYDEN has already indicated his desire for introducing the companion legislation on the House side. Although not cosponsoring this legislation today, I would also like to thank Senator DURENBERGER for his interest and support of many of the concepts outlined in this legislation. Senator LEAHY and I are very encouraged by these developments. I urge all of our colleague to join Senator LEAHY, Congressman WYDEN, and me in our efforts to help the State help their, and our, constituents.

Finally, Mr. President, I would like to take one moment to say what an honor and a privilege it has been to work with Senator LEAHY and his fine staff on this bill. Senator LEAHY has been trying to breathe life into his proposal for over a year now. I know there are many times when he felt like it was a hopeless cause. Today's introduction of our bill represents a vindication for his efforts and his commitment to change and restructure our health care system. It is my hope that we all will take need of his call for action. My constituents and I have concluded that the time for talk has long passed.

Mr. MITCHELL. Mr President, I rise today in support of the State Care Act, legislation developed by Senators LEAHY and PRYOR in an effort to encourage and assist State-based comprehensive health care reform efforts.

I support this effort because it is consistent with HealthAmerica, comprehensive health care reform legislation I introduced last year to reform the Nation's health care system to assure that every American has access to quality, affordable health care.

Access to affordable health care is a fundamental right in a Democratic society. Yet it is a right that cannot be exercised by more than 35 million Americans. And it is a right that is being lost to 1 million additional citizens each year.

But the Nation's health care crisis is not limited to those who have no health insurance. It threatens every American. It threatens those who may become unemployed because of the lingering recession. It threatens those who may develop a serious illness and have their insurance premiums increased to an amount they cannot pay. It threatens those who cannot purchase insurance at any price because they suffer from a pre-existing condition.

The health insurance system in this country has broken down. It no longer affords peace of mind for parents who want to provide the best care available for their children or their parents or themselves.

There is little disagreement about the existence of the crisis. But there continues to be disagreement about how to resolve it. I believe that meaningful health care reform must include serious cost containment strategies and must assure that every American has access to health care.

While I believe that we should build upon our public-private health care system, I also believe that the system needs fundamental reform. We can no longer afford "business as usual" and allow millions of Americans to be denied health care. Fundamental reform of the health care system will be difficult.

And yet, we commit ourselves to that goal.

While we, at the Federal level struggle with how best to reform the Nation's health system, we must, and should, look to the States for ideas. Many of the States are struggling with the same dilemmas that we face in

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Washington. And yet, some States are at the forefront of implementing important reforms which will contain the escalating costs of health care while expanding access to those without coverage.

We can look to Hawaii as an example of a State that has been successful at providing access to health care for most of its citizens for more than 17 years. While the Hawaiian health care system is not perfect, it comes closest to what we hope to achieve for every American.

In 1974, Hawaii adopted a law that required businesses to offer health insurance to virtually every employee. Those exempted, such as seasonal and part-time workers, as well as students, would be covered by special State subsidies. Within a very short time, and with minimal economic disruption to business, the State's medically uninsured population fell to less than 5 percent.

Moreover, in a State with one of the nation's highest costs of living, health insurance premiums are remarkably low. The average Hawaiian family of four today pays half the rate of Californians and those in many other States.

And perhaps most important, Hawaiians' health status has improved. The infant mortality rate is down 50 percent from its 1974 rate. Life expectancy is now 78 years, the highest in the Nation.

I am committed to enacting comprehensive health care reform which will assure that every American has access to affordable health care while controlling the costs of care for the Nation as a whole, for States and for families.

The Leahy/Pryor State Care Act is consistent with that commitment. This legislation will allow a limited number of States that have enacted comprehensive reforms, which are consistent with the fundamental requirements contained in my own legislation foi access and cost containment, to take advantage of a streamlined and expanded waiver approval process for Medicare, Medicaid, and ERISA waivers.

The bill is consistent with a provision included in HealthAmerica, as reported out by the Senate Labor and Human Resources Committee which allows States to opt out of employer-based health care reform as long as certain cost containment and access criteria are met.

The legislation is not a perfect solution to the problems faced by States attempting to implement comprehensive health care reforms. But it is a sincere effort to encourage and assist States as they attempt to control costs and provide access to care for all of their citizens. We will continue to revise and refine this legislation to assure that quality care is protected for Medicare and Medicaid beneficiaries and that legitimate business and labor interests are addressed.

I comment Senators LEAHY and PRYOR for their efforts in the development of this legislation. I look forward to working with them to further refine the bill as we work together to assist States to implement comprehensive reforms that are consistent with Federal health care reform legislation.

Mr. RIEGLE. Mr. President, today I am joining my distinguished colleagues, Senators LEAHY and PRYOR and others, in cosponsoring S. 3180. This legislation, called StateCare, will provide States with the tools to move ahead with strong health care reform proposals that require waivers under Medicare, Medicaid, and the Employee Retirement Income Security Act [ERISA].

I believe that State experience is vital in helping us develop a comprehensive reform plan that can work. I recently had a hearing in the Finance Subcommittee on Health for Families and the Uninsured on innovative programs States are developing to control health care costs and expand coverage to their uninsured citizens. State experience is an important part of the national debate on health care reform. At the same time, the States cannot alone solve the health care crisis in our Nation. This country desperately needs a national health care reform program for all its citizens.

The purpose of introducing the bill today, before the August recess, is to solicit the views of individuals and organizations on the legislation in preparation for a September hearing.

This country spends more than $800 billion on health care annually, or about $2.2 billion a day more than any other nation. A decade ago, a family's out-of-pocket costs were $1,700 in 1980 and rose to $4,300 in 1991. At the same time, more than 35 million Americans have no health care coverage. Skyrocketing health care costs and the growing number of Americans with no health insurance are signs that our health care system must be reformed.

State officials see the crisis firsthand and have direct experience in this area. States are major purchasers of health care, primarily through the Medicaid Program, but they also regulate insurance, license health care professionals and institutions, allocate capital resources, and deliver services.

Recent developments in many of our States illustrate that reform is possible. So far this year, Florida, Minnesota, and Vermont have passed programs and more States are considering reform proposals. Hawaii has had a comprehensive program in place since 1974 that builds on the current employer-based system and makes sure health care is available for everyone. At the hearing I held, the Governor of Hawaii stated that they found that universal access itself has helped to hold down health care costs in Hawaii.

State and Federal Governments clearly need to work together on reforming our Nation's health care system, both now and in the future, as Congress moves forward on reaching a consensus on national reform. More immediately, States face Federal statutory and regulatory barriers to implementing innovative plans and I want to continue to work with States on this. But I think we all agree that these State initiatives are not a substitute for national reform. In fact, this bill extends waiver authority for only 10 State programs. Ultimately, the Federal Government must be involved to set uniform standards in place to control skyrocketing costs and to guarantee coverage for every American.

The intent of S. 3180 is to remove the current barriers for reforms for those States that have comprehensive proposals. A new Federal commission would be established to streamline the waiver process and set up a one-stop-shop for the approval process. The commission would monitor the programs to ensure that the criteria relating to cost controls and access are met.

Mr. President, while I agree in principle with helping States with programs that are truly comprehensive—with universal access and strong cost controls—I remain concerned about a number of issues which I would like to continue working on with the sponsors of the bill.

It is critical that State proposals ensure universal access to health care both for social good and to eliminate the current shifting of costs onto those who now have health insurance, including businesses and workers. While the bill would require States to recommend plans for covering all uninsured, we must ensure that the plans are actually implemented.

As chairman of the Finance Subcommittee on Health for Families and the Uninsured, I also believe that strong protections must be in place to make sure that Medicaid beneficiaries continue to receive high quality care and do not incur additional cost-sharing or other requirements that may adversely affect them. I know that Senators LEAHY and PRYOR are also concerned about this and I stand ready to work with them and other groups such as Children's Defense Fund and Families U.S.A. who are also concerned about the specific details related to Medicaid waivers.

In addition, I am concerned that without a national plan and national standards, changes to ERISA which give States more authority to impose requirements on self-insured plans may unfairly treat businesses that are currently offering health care and their workers, especially if they would not benefit from the reforms. I want to continue working with labor union organizations on this area in particular.

I want to emphasize that a State-by-State approach would not now be needed if we had the leadership from the

White House to move comprehensive reform. Clearly, a statewide approach by itself would create problems particularly for businesses that operate in many States. But I know my colleagues would agree that this proposal is not a substitute for national reforms. In fact, many of us, including Senators LEAHY, PRYOR, MITCHELL, ROCKEFELLER, WELLSTONE, and KERREY and myself, are now working on developing a new consensus proposal that would systematically reform our health care system.

Mr. President, now more than ever, this country needs a national health care program. I am committed to accomplishing this goal. I know Senators LEAHY and PRYOR are equally committed to this and I commend them for their leadership and look forward to working with them on this bill and on national health care reforms.

Mr. GRAHAM. Mr. President, I am pleased to be a cosponsor of the State health care reform bill introduced today. I commend Senators LEAHY and PRYOR for their commitment to this issue.

The bill would provide important Medicare, Medicaid, and ERISA waiver authority for States to move forward with health care reform plans. Under the measure, up to ten states could implement health reform programs through a State Health Care Authority composed of providers, insurance industry, and labor representatives.

I am pleased that Congress will consider State health reform legislation, as well as other incremental health measures this year. Our Nation's uninsured will ultimately benefit from a comprehensive health reform plan. In the interim, we should pursue realistic, short-term reforms such as permitting the States to manage the health care crisis in a reasonable and responsible fashion.

Florida is a leader in this area. The State legislature has passed into law a comprehensive State health plan proposed by Governor Lawton Chiles. The health proposal was created to resolve the unique health and economic concerns of a large, growth State such as Florida. Florida has the Nation's third highest percentage of nonelderly uninsured residents—22.9 percent or 2.5 million uninsured persons.

Florida's plan created a new agency for Health Care Administration, with responsibility for cost control, medical licensure, and implementation of a State health reform plan. Until 1995, the State will pursue voluntary cost containment measures and health insurance coverage expansion, including a Medicaid buy-in. Should voluntary cost containment and coverage goals not be met by December 31, 1994, the agency must submit a proposal to the Governor which mandates health coverage for all Floridians.

The Leahy-Pryor State health reform bill would enable Florida to implement the above health reforms. I am concerned, however, that the legislation does not contain a specific financing mechanism for State health reform efforts, such as Florida's Medicaid buy-in. It is my hope that this issue will be settled before the legislation is enacted.

A provision of the State health reform legislation would allow States to use Medicaid savings resulting from health reform efforts for future State health reform improvements or expansions. I fully support this language and hope that the mechanism is expanded to include a guaranteed funding stream for State programs.

Mr. President, the State health reform bill will allow States to provide access to some of the 37 million uninsured. It is a vital first step in the process of creating a national, comprehensive health plan for the Nation's most needy persons.

By Mr. DOMENICI (for himself and Mr. SANFORD):

S. 3181. A bill to establish a filing deadline and to provide certain safeguards to curb frivolous and other cases not substantially justified which are brought under the Securities and Exchange Act's implied private action provisions; to the Committee on Banking, Housing, and Urban Affairs.

SECURITIES PRIVATE ENFORCEMENT ACT

Mr. DOMENICI. Mr. President, Senator SANFORD and I are introducing a bill today that will help return some rational, merit-based criteria to securities litigation. There is something wrong when cases settle regardless of the merits. There is something wrong when experienced and respected members of the corporate community refuse to serve on the boards of high technology companies because of potential liability from unwarranted securities litigation. There is something wrong when accounting firms are withdrawing from the auditing business and are shunning emerging, high technology companies as clients because high technology is a high-risk target for 10(b)(5) securities litigation. There is something wrong when real victims of fraud receive as little as 5 cents for every dollar of their loss and the lawyers receive the lion's share of any settlement. There is something wrong when the attorney's fees for the defense are twice the settlement. There is something wrong when accountants are paying more in legal fees than any other expense except salaries.

What's wrong is that we are suffering from hyperlexia, a serious disease caused by an excessive reliance on law and lawyers. It is pervasive throughout our society but has reached epidemic dimensions in the court-created private actions brought under section 10(b) of the Securities and Exchange Act of 1934. This litigiousness is killing entrepreneurship, and with it, significant growth potential for our economy.

These lawsuits are making it harder for American companies to raise capital, and to attract experienced board members. These lawsuits chill creativity, discourage new ventures and dampen job creating potential. At the same time these lawsuits distract entrepreneurs and make it more difficult of them to focus on the business of being competitive.

We have professional plaintiffs who benefit from secret fee splitting arrangements. As one scholarly commentator has noted, plaintiffs' attorneys in this field have made "the ambulance-chaser by comparison a paragon of propriety." Often a lawsuit is filed within 1 day to 1 week after a stock's price drops. The Wall Street Journal has called it "a class action shakedown racket."

Senator SANFORD has been a director of several corporations. His commitment to this issue grows out of concern for others, like himself who serve on corporate boards. But since many of my other colleagues have not served as an officer, director or other professional involved in securities public offerings and disclosure, I will briefly explain how a bad stock market investment decision can be transformed into a nifty legal settlement.

As one Virginia law firm advertised: "Losses in the financial or stock markets? You may have a legal remedy."

There is no mention of the need to prove whether false or misleading statements were made or whether there were material omissions of fact. The ad doesn't mention the requirement that the plaintiff must prove he justifiably relied on the factual misrepresentations. The ad leaves out the need to prove that the defendant intended to defraud the investor and potential client. The ad makes it sound simple: If you lost money, you sue. A 10(b)(5) lawsuit is a way for speculators to hedge their investment.

If a stock goes up, the officers, directors, and anyone else incidentally involved are sued by people who sold too soon. If the stock goes down, speculators who bought and held stock sue. If the stock doesn't move other lawsuits are filed.

And plenty of lawsuits are filed. In the last 3 years, 1 out of every 12 stocks traded on the New York Stock Exchange have been sued.

In reviewing the settlements of recent lawsuits, studies confirm that there is little difference in the settlement of meritorious and meritless lawsuits. In 10–b hyperlexia, the plaintiff with a meritless placebo suit typically recovers as much as the plaintiff with a meritorious claim. I think this threatens the integrity of our judicial system.

Supporting the contention that these lawsuits have become predatory, is the existence of a when to sue formula. Class action firms do not find it profit-

able to sue companies if the potential recovery is less than $20 million, regardless of the merits of the claims against such companies. Merits don't matter. A strong case is worth no more than a weak one.

According to a recent Stanford Law Review article, we now have, in essence, a no-merits-based legal system triggered by formula. It effectively transfers wealth from plaintiffs with strong cases to those with weak cases.

Securities and Exchange Commissioner Richard Breeden has summed up the situation with the statement, "heads I win, tails I sue."

The 10–b cases are opportunities for speculators and a few predatory law firms to coerce large settlements from American businesses, especially new and emerging companies whose stock is particularly susceptible to stock price swings.

Computers are programmed to alert lawyers to volatile stock price swings; they find their professional plaintiff; they print out their pro forma pleadings on their word processors and race to the courthouse.

The National Law Journal has reported that, of 46 cases it studied, 12 were filed within 1 day after a company's disclosure of less than anticipated earnings or other disappointing news. Another 30 law suits were filed within 1 week. Lawyers filing cases within days or weeks of a little bad news have not done any serious examination of the facts, and circumstances surrounding the situation. The cookie cutter complaints are filed and reused against company after company. One firm is distinguished for its multiple pro forma complaints—all identical right down to the same misspelled words.

From the board room to the stock room people know that these lawsuits are hurting the American economy. The burden of frivolous litigation does more than impose additional costs on new companies. It erects tremendous obstacles to developing and marketing successful future products by making the experienced investment bankers and accounting firms, whose assistance is important for accessing capital markets, less willing to work with new ventures because of the higher risk of litigation associated with them.

A March 3, 1992 Wall Street Journal article reported that 56 percent of accounting firms polled were limiting industries that they will take as clients; 79 percent are limiting services offered.

Two prominent investment firms were defendants in 60 and 73 lawsuits respectively as a result of public offerings they had underwritten.

Making prestigious individuals reluctant to serve on the boards of such companies for the same reason. This reduces the company's credibility to investors and lenders.

Diverting management's attention from expanding the business to managing the litigation.

The Supreme Court in 1975 recognized that "litigation under Rule 10b–5 presents a danger of vexatiousness different in degree and kind from that which accompanies litigation in general." *Blue Chip Stamps* v. *Manor Drug Store*, 421 U.S. 723, 739 (1975).

Unfortunately, the Supreme Court prophesied too well the potential for abuse.

> [In] the field of federal securities laws governing disclosure of information even a compliant which by objective standards may have very little success at trial has a settlement value to the plaintiff out of any proportion to its prospect of success at trial so long as he may prevent the suit from being resolved against him by dismissal or summary judgment. The very pendency of the lawsuit may frustrate or delay normal business activity of the defendant which is totally unrelated to the lawsuit.

The types of potential abuses described by the Supreme Court 15 years ago have become a real life litigation nightmare. The situation promoted the American Business Conference to pass a resolution on September 30, 1991 stating:

> Whereas a substantial portion of the cost of this litigation explosion, in time and money, burdens American corporations as they try to compete in a difficult economic environment, and whereas those costs are reflected in higher prices, fewer new jobs, and most important, a compromised civil justice system that invites cynicism rather than respect * * * resolved * * * the purpose of such suits is to coerce large settlements from firms under threat of lengthy and expensive pretrial discovery proceedings. Such legal piracy harms the economy's competitiveness and does nothing to improve the civil justice system or the rights of citizens under that system.

The impact on emerging companies like those who are members of the American Business Conference is very serious because these companies are companies creating the new products and the new jobs. But their companies' stock also frequently has large, unanticipated swings in earnings that plaintiffs and their lawyers seize upon as the basis for a lawsuit. For example every computer-related company in northern California that made an initial public offering between 1983 and the 1987 market collapse was named in a securities action.

Seagate Technology, a California disk drive manufacturer has been subjected to 13 securities class actions. Twelve were triggered when their stock price dropped.

The 13th was triggered by an increase in earnings. The claim in that lawsuit was that the company failed to disclose that it expected to do better than it had in the previous quarter.

Seagate spent millions defending these cases. This does not include time that the company's executives have had to spend on litigation. This is time and attention that could be more productively spent on their business.

An officer of Seagate Technology stated, "When I spend mind share on these suits, it cheats my company. These suits are not just nonproductive. They are counterproductive."

Apple Computer was found liable for $100 million. The judge later threw out the case on the ground that there was "no substantial evidence" of a violation.

Paul Wythes, a Palo Alto venture capitalist said, "These high-technology companies are trying to compete in a world market. They ought to be out trying to do a better job designing products. You don't see these suits happening in Japan."

Securities laws are supposed to help investors by ensuring a flow of accurate information about public companies. The present system actually reduces the amount of available information.

Oracle Systems Corp. which was the target of 19 class actions in 1990 had adopted a no comment policy. It refuses to provide market analysts with information about its expected revenues and earnings.

These 10b–5 cases are hurting the accounting firms. One accounting firm—the seventh largest in the country—filed for bankruptcy in 1990 due, in large part, to the burden of securities fraud claims.

Independent outside directors are important to good corporate governance. They perform the critical role of watching over corporate managers. In light of the substantial danger of manufactured claims of fraud, there are fewer and fewer experienced people willing to serve as outside directors. These independent directors are always sued when their company is sued.

A recent study done by the National Association of Corporate Directors and Arthur Young reports that 17 percent of the CEO's of the Fortune 1000 companies no longer serve as independent directors on boards of companies other than their own.

One company executive is quoted in Business Week, "We can't attract good directors. Why should they put their whole net worth on the line?"

Some companies try to attract outside directors by providing officers and directors insurance. But like other liability insurance, the cost of coverage has skyrocketed in recent years so that even that option may not be available.

Armada Corp., a Detroit-based manufacturer of alloys and exhaust systems, was faced 7 years ago with a premium increase from $47,000 to $720,000 for $10 million coverage; the deductible also increased from $125,000 to $750,000. In response, Armada eliminated its insurance coverage and 8 of its 10 directors resigned.

The company's president stated that it had:

> Decided we could only afford to have low-net-worth individuals to replace the directors who left. So we found well-qualified individuals who are a little younger, whose net

worth is low enough so we don't have a problem.

Is this how companies should be forced to select directors?

The fact that many qualified individuals decline to serve as outside directors hurts start-up and emerging companies. These companies need the advice of experienced managers.

If inexperienced individuals are the only ones willing to take the risk, the quality of decision making and the company's ability to obtain financing will necessarily suffer. This hurts America's competitiveness.

The result is that fewer companies will be formed and few products will be brought to market. Everyone says they care about competitiveness. yet if we don't stop this destructive trend, the only manufacturing preeminence the United States may enjoy in the future is its world renowned ability to manufacture lawsuits.

We should enact a fee shifting provision, consider changing joint and several liability, limiting finders fees that attorneys pay to plaintiffs to participate as representatives in lawsuits.

I ask unanimous consent that the text of the bill, a description of the bill, and a letter from Securities and Exchange Commissioner Richard Breeden be printed in the RECORD.

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

S. 3181

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This title may be cited as the "Securities Private Enforcement Act of 1992".

SEC. 2. FINDINGS AND PURPOSES.

(a) FINDINGS.—The Congress finds that—

(1) excessive securities litigation is a serious drag on the national economy, and is impairing the efficient allocation of the Nation's capital;

(2) meritless lawsuits filed under Federal securities laws are making it harder for American companies to raise capital and attract experienced members to serve on their boards;

(3) excessive litigation distracts entrepreneurs and makes it more difficult for them to focus on being competitive;

(4) in the past 3 years, issuers of 1 out of every 12 stocks traded on the New York Stock Exchange have been sued for securities fraud;

(5) in the securities fraud area, the civil justice system is being transformed into a nonmerit-based, unjust system, in which professional plaintiffs extract settlements from entrepreneurs, regardless of the merits of the cases filed;

(6) such securities lawsuits impose additional costs on publicly traded companies, often force them into bankruptcy, and cost the economy jobs;

(7) such securities fraud lawsuits also erect tremendous obstacles to developing and marketing successful future products by making investment bankers and accounting firms whose assistance is essential for accessing capital markets less willing to work with new venture firms because of the higher risk of litigation associated with them; and

(8) reform in the securities fraud laws are needed to ensure that the courts can properly hear and adjudicate securities fraud cases.

(b) PURPOSES.—The purposes of this Act are—

(1) to ensure that fewer frivolous securities fraud suits are filed in Federal courts for the primary purpose of coercing nuisance settlements from innocent defendants;

(2) to enact adequate incentives for evaluating the merits of a case prior to filing and to create disincentives for filing meritless securities fraud lawsuits;

(3) to provide standards of proportionate liability in these implied private actions in which defendants did not knowingly make false misrepresentations;

(4) to curb abusive practices involving conflicts of interest, bounties, bonuses, and referral fees; and

(5) to prohibit the payment of attorneys' fees from the Securities and Exchange Commission's disgorgement funds.

SEC. 3. TIME LIMITATION ON PRIVATE RIGHTS OF ACTION UNDER THE SECURITIES EXCHANGE ACT OF 1934.

(a) FILING DEADLINE FOR PRIVATE RIGHTS OF ACTION.—The Securities Exchange Act of 1934 (15 U.S.C. 78a et seq.) is amended by adding at the end the following new section:

"SEC. 36. LIMITATION ON PRIVATE RIGHTS OF ACTION.

"(a) IN GENERAL.—Except as otherwise provided in this title, any private right of action arising from a violation of this title shall be brought not later than the earlier of—

"(1) 5 years after the date on which such violation occurred; or

"(2) 2 years after the date on which the violation was discovered or should have been discovered through the exercise of reasonable diligence.

"(b) AWARD OF FEES.—

"(1) IN GENERAL.—In any implied private action arising under this title, if the court enters a final judgment against a party litigant on the basis of a motion to dismiss, motion for summary judgment, or trial on the merits, the court shall, upon motion by the prevailing party, award the prevailing party reasonable fees and other expenses incurred by that party, to the extent permitted by this section.

"(2) SUBSTANTIAL JUSTIFICATION STANDARD.—If the court determines that the position of the losing party in an action described in paragraph (1) was substantially justified, it shall not award fees and other expenses to the prevailing party under this subsection. The determination of whether the losing party's position was substantially justified shall be made on the basis of the record made in the civil action for which fees and other expenses are sought.

"(c) PRELIMINARY RULING REQUIRED.—

"(1) IN GENERAL.—The court may award fees and expenses to the prevailing party under subsection (b)(1) only if the court previously rendered a preliminary ruling that an award to the prevailing party of fees and other expenses might be appropriate in the action.

"(2) MOTION FOR PRELIMINARY RULING.—At the time prescribed by the Federal Rules of Civil Procedure for the filing of a motion to dismiss the complaint or at the time that a party files a motion for summary judgment, in addition to such motion, any party may file a separate motion seeking a preliminary ruling that such party is entitled to recover fees and expenses in the event that such party ultimately prevails in the action, alleging that the position in the underlying litigation of the opposing party or parties is not substantially justified. Such motion may be accompanied by affidavits.

"(3) GROUNDS FOR GRANTING MOTION.—The court shall grant a preliminary motion for fees and expenses if it appears, on the basis of the motion, the response thereto, and any accompanying affidavits, that the position of the party opposing the motion might not be substantially justified. In making this determination, the court need not take the allegations of the complaint as true, and may make a preliminary judgment respecting disputed facts material to the underlying cause of action.

"(4) RECOVERY OF FEES.—If the court grants a party's motion for a preliminary ruling under paragraph (3), that party is eligible to recover reasonable fees and expenses incurred by that party following the date on which the motion is granted. Such fees and expenses may be recovered, subject to all other requirements of this section.

"(d) APPLICATION FOR FEES AND EXPENSES.—A party seeking an award of fees and other expenses shall, not later than 30 days after a final judgment in a private right of action arising from a violation of this title, submit an application to the court for fees and other expenses that—

"(1) verifies that the party is entitled to such an award under subsections (b) and (c);

"(2) specifies the amount sought, including an itemized statement from any attorney or expert witness representing or appearing on behalf of the party;

"(3) states the actual time expended by such attorneys and witnesses; and

"(4) specifies the rate at which fees and other expenses were computed.

"(e) DISCRETIONARY ACTIONS.—The court, in its discretion, may—

"(1) determine whether fees and expenses awarded pursuant to this section shall be awarded against the unsuccessful party, its attorney, or both; and

"(2) reduce the amount to be awarded pursuant to this section, or deny an award, to the extent that the prevailing party during the course of the proceedings engaged in conduct that unduly and unreasonably protracted the final resolution of the matter in controversy.

"(f) MOTIONS FOR CERTAIN ORDERS.—In adjudicating any motion for an order compelling discovery or any motion for a protective order made in any implied private action arising under this title, the court shall award the prevailing party reasonable fees and other expenses incurred by the party in bringing or defending against the motion, unless the court finds that special circumstances make such an award unjust.

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

"(1) the term 'fees and other expenses' includes—

"(A) the reasonable expenses for expert witnesses;

"(B) the reasonable costs of any study, analysis, report, test, or project which is found by the court to be necessary for the preparation of the party's case; and

"(C) reasonable attorneys' fees and expenses,

based upon the prevailing market rates for the kind and quality of services furnished; and

"(2) whether a position is 'substantially justified' shall be determined in the same manner as in section 2412(d)(1)(B) of title 28, United States Code.".

SEC. 4. PROPORTION OF LIABILITY.

The Securities Exchange Act of 1934 (15 U.S.C. 78a et seq.) is amended by adding at the end the following new sections:

"SEC. 37. REQUIREMENT OF PROPORTIONATE LIABILITY FOR PRIVATE CAUSES OF ACTION IMPLIED UNDER THIS TITLE.

"(a) APPLICABILITY.—This section applies only to the allocation of damages among defendants. Nothing in this section shall affect the standards for liability associated with any implied private action arising under this title.

"(b) LIABILITY BASED ON KNOWING SECURITIES FRAUD.—A defendant found liable for damages in an implied private action arising under this title may be liable jointly and severally only if the trier of fact specifically determines that the defendant engaged in knowing securities fraud, as defined in subsection (d).

"(c) OTHER BASES FOR LIABILITY.—If the trier of fact finds, pursuant to subsection (b), that the defendant did not engage in knowing securities fraud, the defendant's liability shall be determined as follows:

"(1) ALLOCATION OF LIABILITY.—The trier of fact shall determine the percentage of responsibility of the plaintiff, of each of the defendants, and of each of the other persons or entities alleged by the parties to have caused or contributed to the harm alleged by the plaintiff. In determining the percentages of responsibility, the trier of fact shall consider—

"(A) the nature of the conduct of each person; and

"(B) the nature and extent of the causal relationship between that conduct and the damage claimed by the plaintiff.

"(2) FORMULA.—For each defendant, the trier of fact shall multiply that defendant's percentage of responsibility (determined under paragraph (1)) by the total amount of damage suffered by the plaintiff that was caused in whole or in part by that defendant, and shall enter a verdict or judgment against the defendant in that amount. No defendant whose liability is determined under this subsection shall be jointly liable on any judgment entered against any party to the action.

"(3) LIMITATION ON OFFSET RECOVERY.—Except where a contractual relationship permits, no defendant whose liability is determined under this subsection shall have a right to recover from another defendant any portion of the judgment entered against that defendant.

"(d) DEFINITION.—

"(1) IN GENERAL.—For purposes of this section, a defendant engages in 'knowing securities fraud' only if such defendant—

"(A) makes a material representation with actual knowledge that the representation is false or omits to make a statement with actual knowledge that, as a result of the omission, one of the defendant's material representations is false; and

"(B) knows that other persons are likely to rely on that misrepresentation or omission.

"(2) EXCLUSION OF RECKLESS CONDUCT.—Reckless conduct by the defendant shall not be construed to constitute 'knowing securities fraud'. The liability in damages, if any, of a defendant who acts in a reckless manner shall be determined in accordance with subsection (c).".

SEC. 5. ELIMINATION OF CERTAIN ABUSIVE PRACTICES.

The Securities Exchange Act of 1934 (15 U.S.C. 78a et seq.) is amended—

(1) in section 21, by adding at the end the following new subsections:

"(i) RECOVERY BY NAMED PLAINTIFFS IN CLASS ACTIONS.—In any implied private action arising under this title that is certified as a class action pursuant to the Federal Rules of Civil Procedure, the share of damages under any final judgment or any settlement that is awarded to any party serving as a representative plaintiff shall be calculated in the same manner as the shares of the final judgment or settlement awarded to all other members of the plaintiff class. The preceding sentence may not be construed to limit the award to a representative plaintiff of reasonable compensation, costs, and expenses relating to the representation of the class.

"(j) PROHIBITION OF CONFLICTS OF INTEREST.—In any implied private action arising under this title that is certified as a class action pursuant to the Federal Rules of Civil Procedure, if a party is represented by any attorney who directly owns or otherwise has a beneficial interest in the securities that are the subject of the litigation, the court shall make a determination of whether such interest constitutes a conflict of interest sufficient to disqualify the attorney from representing the party.";

(2) in section 15(c), by adding at the end the following new paragraph:

"(7) RECEIPT FOR REFERRAL FEES.—In any implied private action arising under this title that is certified as a class action pursuant to the Federal Rules of Civil Procedure, no broker or dealer may solicit or accept remuneration for assisting an attorney in obtaining the representation of any member of the class."; and

(3) in section 21(d), by adding at the end the following new paragraph:

"(4) PROHIBITION OF ATTORNEYS' FEES PAID FROM DISGORGEMENT FUNDS.—Except as otherwise ordered by the court, funds disgorged as a result of any action brought by the Commission in Federal court, or as a result of any Commission administrative action, shall not be distributed as payment for attorneys' fees or expenses incurred by private parties seeking a share of the disgorged funds.".

SEC. 6. ISSUANCE OF SUBPOENAS IN JUDICIAL ACTIONS.

(a) SECURITIES ACT OF 1933.—Section 22(a) of the Securities Act of 1933 (15 U.S.C. 78v(a)) is amended by inserting after the second sentence the following: "In any action or proceeding instituted by the Commission or the United States under this section, subpoenas for witnesses who are required to attend a court of the United States in any district may run into any other district.".

(b) SECURITIES EXCHANGE ACT.—Section 27 of the Securities Exchange Act of 1934 (15 U.S.C. 78aa) is amended by inserting after the third sentence the following: "In any action or proceeding instituted by the Commission or the United States under this section, subpoenas for witnesses who are required to attend a court of the United States in any district may run into any other district.".

(c) INVESTMENT COMPANY ACT.—Section 44 of the Investment Company Act of 1940 (15 U.S.C. 80a-43) is amended by inserting after the fourth sentence the following: "In any action or proceeding instituted by the Commission or the United States under this section, subpoenas for witnesses who are required to attend a court of the United States in any district may run into any other district.".

(d) INVESTMENT ADVISERS ACT.—Section 214 of the Investment Advisers Act of 1940 (15 U.S.C. 80b-14) is amended by inserting after the third sentence the following: "In any action or proceeding instituted by the Commission or the United States under this section, subpoenas for witnesses who are required to attend a court of the United States in any district may run into any other district.".

(e) PUBLIC UTILITY HOLDING COMPANY ACT.—Section 25 of the Public Utility Holding Company Act of 1935 (15 U.S.C. 79y) is amended by inserting after the third sentence the following: "In any action or proceeding instituted by the Commission or the United States under this section, subpoenas for witnesses who are required to attend a court of the United States in any district may run into any other district.".

SEC. 7. EFFECTIVE DATE.

The provisions of this Act (and the amendments made by this Act) shall apply to all actions commenced on or after the date of enactment of this Act.

SUMMARY OF PROVISIONS IN THE SECURITIES PRIVATE ENFORCEMENT ACT OF 1992

This bill applies to implied private actions brought under provisions of the Securities Exchange Act of 1934, principally actions under Section 10(b) of that Act and Securities and Exchange Commission Rule 10b-5.

STATUTE OF LIMITATIONS

The Supreme Court's decision in the *Lampf* case recognized a statute of limitations for 10b-5 claims of one year from discovery, but no later than three years from the date of the violation. The bill would substitute a rule of two years from discovery but not later than five years from the date of the violation. The two year period would begin to run when the violation was discovered or would have been discovered with the exercise of reasonable diligence.

FEE SHIFTING

This provision of the bill provides that the losing party or his attorney in a securities fraud action may be required to pay the attorneys' fees incurred by the winning party. The bill does not mandate automatic fee shifting. The loser must pay the winner's fees only if two conditions are satisfied.

First, if the losing party establishes that its position was "substantially justified," it is not required to pay the winner's fees. The substantially justified standard is drawn from the Equal Access to Justice Act, 28 U.S.C. section 2412(d), and means that the loser's position be substantial than simply not frivolous in order to preclude fee shifting.

Second, fees may be awarded only to the extent the losing party was put on notice that he or she might have to pay attorneys' fees if they lost and the judge rules that the case was not substantially justified. At two different stages in the litigation—the filing of a motion to dismiss and the filing of a motion for summary judgment—any party may file a separate motion seeking a preliminary ruling that fees may be awarded if they subsequently prevail on the merits.

If the court grants the fee shifting motion, the prevailing party is eligible to recover any fees incurred in the litigation from that point forward.

PROPORTIONATE LIABILITY

Under current law, joint and several liability a plaintiff can recover all damages awarded from one deep pocket defendant even if that defendant were only incidentally involved in the case.

It is an incentive to name as codefendants people who were only incidentally involved especially if they have significant net worth, directors and officers insurance or other financial resources.

The bill creates a two-tier liability system for 10b–5 securities cases. The bill recognizes that not all defendants should be treated equal.

The bill would impose joint and several liability for 10b–5 violations on defendants who engage in "knowing securities fraud," which is defined as the making of a false statement with actual knowledge of its falsity. Reckless conduct is not sufficient to establish a "knowing" violation.

Defendants who do not engage in "knowing securities fraud" will be liable for the portion of the damages for which a jury finds them responsible. These lesser defendants would not be required to compensate the plaintiff for damages attributable to the actions of other parties.

The provision relates only to the allocation of damages; it will not affect the standard for determining liability for 10b–5 violations.

ELIMINATION OF ABUSIVE LITIGATION PRACTICES

The bill prohibits four abusive practices associated with securities litigation.

First, "professional plaintiffs: will no longer be permitted to obtain a recovery greater than that of the other plaintiffs in a class action unless the additional sum is justified as compensation for costs actually incurred.

Second, an attorney may not represent a class when he is the beneficial owner of the securities that are the subject of the litigation.

Third, securities brokers and dealers may not receive "steering" fees for referring customers to attorneys.

Fourth, funds disgorged as the result of an SEC enforcement proceeding must be paid to victims of fraud; they may not be distributed to private attorneys.

NATIONWIDE SUBPOENA POWER

Permits nationwide subpoena power SEC initiated federal securities cases. This additional power would result in a substantial savings in terms of travel-cost and staff-time by eliminating unnecessary depositions. It would provide the live witnesses before the trial court. This provision is included at the request of the Securities and Exchange Commission.

SECURITIES AND EXCHANGE COMMISSION,
Washington, DC, August 12, 1992.

Hon. PETE V. DOMENICI,
Dirksen Senate Office Building, U.S. Senate, Washington, DC.

DEAR SENATOR DOMENICI: Thank you for sending me a copy of the legislation which you and Senator Sanford plan to introduce shortly, the "Securities Private Enforcement Act of 1992." I commend you and Senator Sanford for your efforts in crafting this proposal, and appreciate the opportunity to comment on it.

Private rights of action are an essential enforcement tool to protect investors against fraud. Private suits under Section 10(b) of the Securities Exchange Act and Rule 10b–5 thereunder, for example, are instrumental in recompensing investors who are cheated through the issuance of false and misleading information or by other means. When corporate officers, accountants, lawyers or others involved in the operation of a public company deceive investors for their own benefit, they should be held accountable for their actions. If this were not the case, investors would be far less willing to participate in our securities markets. This would limit the most important source, and raise the costs, of new capital for all American businesses.

In addition to this general principle, securities fraud actions against accounting firms that participate in or assist fraudulent activity by not properly performing their auditing functions are important to the maintenance of high standards of quality and integrity among public accounting firms. Investors rely heavily on the accuracy of audited financial statements of public companies, as do creditors, investment analysts and others. When auditors fail to adhere to generally accepted accounting principles or generally accepted auditing standards, many innocent parties may suffer. Indeed, inaccuracies in audited financial statements of banks and savings and loans have contributed to billions of dollars in investor losses over the past ten years. Public policy should seek to maintain high expectations of integrity and accuracy in the performance by auditors and accountants of their tasks.

While private fraud actions can be a very important supplement to antifraud actions by the Commission itself, in recent years the number and cost of private lawsuits have grown significantly. Some law firms appear to have made a virtual industry out of bringing suits under the securities laws against companies, their directors, auditors and others. These suits often appear to be prompted solely by movements in the market price of a stock. Allegations of securities law violations are made in general or conclusory terms within hours of a significant stock price change.

As a practical matter, the cost of litigating a "strike suit" may be so high—and the potential liability so great—that many defendants choose to settle even meritless actions rather than run the full gauntlet of modern litigation. In cases where there is no real underlying merit, the shareholders of the defendant company will ultimately see their equity paid out to the plaintiff lawyers as a "litigation tax." These payments can be particularly damaging to small companies whose finances are more precarious and whose stocks are by nature more volatile in price. Ultimately it is the shareholders of the companies who pay the cost of abusive and frivolous suits. This process drives up the "litigation-adjudted" cost of capital for companies throughout our economy. It also makes the U.S. securities market less attractive than its foreign competitors as a place for domestic and foreign firms to raise capital.

As you know from my previous correspondence and testimony on this subject, I strongly support efforts to reduce the amount and cost of abusive and frivolous securities litigation, while maintaining the rights of investors to seek redress for truly fraudulent conduct. Any such effort must deal with the problem of the "strike suit" that is intended to force companies or other market participants to settle vague or far-fetched claims in order to avoid the cost of litigation and the exposure to enormous liability. Of course, reducing the number of such suits without also weakening the rights of investors to protection against fraud requires very careful statutory drafting.

While we have not had a chance to complete a thorough review of all of the provisions in the draft legislation, it is evident that this bill would help to reduce the cost of frivolous suits while seeking to preserve—and in some areas to improve—the protection of investors against fraudulent conduct. From my perspective there are still a few sections of the bill whose language should be modified somewhat from the current text, and I look forward to working with you toward this end in the legislative process. However, overall I believe that this legislation could make a significant contribution to reducing the burden of meritless securities litigation.

More specifically, I support some type of "English rule" that would shift the cost of attorneys' fees to the losing party in appropriate cases, thereby curbing abusive litigation. Your proposal to shift fees unless the losing party's position is found by the court to be "substantially justified" provides a reasonable fee-shifting standard. In addition, the Commission has previously supported Congressional action to deal with conflicts of interest between class members and class counsel; to limit recovery by the named plaintiff in securities class actions; to prohibit attorney referral fees; and to prohibit the payment of attorney's fees from Commission disgorgement funds. All of these matters are appropriately addressed in your bill. Though it is not included in your bill, I personally would also support the repeal of securities fraud as a predicate offense for civil actions under the Racketeer Influenced and Corrupt Organizations Act. Civil RICO is an unnecessary duplication of existing securities law remedies.

In addition, as I stated in my June 12 letter to you and Senator SANFORD, I support efforts to modify, in certain circumstances, joint and several liability in securities fraud actions. In my view, a defendant who plays an integral role in wrongdoing should be jointly and severally liable for the losses of an innocent investor. At the same time, there is justification for limiting such liability for a defendant who does not knowingly engage in fraud and whose role in the wrongdoing is peripheral. Your draft bill—which distinguishes between persons who engage in "knowing" securities fraud, and those who merely "recklessly" participate in a fraud—is a major improvement over previous drafts, such as the version which I discussed in my June letter. On the other hand, there may be cases where a defendant such as an auditor, while perhaps lacking "knowledge" of the fraud, plays such an integral role in the perpetration of the fraud that he, rather than the innocent fraud victim, should bear the financial burden caused by the wrongdoing. We look forward to working with the Committee to further balance the interests of investors against the interests of accounting firms and other participants in the capital formation process.

I also appreciate your willingness to include in the bill provisions that would allow the Commission to request the issuance of trial subpoenas outside of the court district in which the trial is located. These amendments would reduce the cost of, and enhance the conduct of, Commission enforcement litigation.

Finally, the Commission and the Administration have supported efforts to provide a longer statute of limitations for implied private actions under the Securities Exchange Act of 1934, thereby modifying the result in *Lampf, Pleva, Lipkind, Prupis & Petigrow* v. *Gilbertson*, 111 S. Ct. 2773 (1991). It is important to stress that an unduly short statute of limitations precludes the bringing of meritorious cases as well as frivolous lawsuits. Thus, a statute of limitations should ensure that fraud victims have a reasonable opportunity to have their cases heard in court. Your legislative proposal would help restore the legal rights of defrauded investors.

There is one significant aspect of your statute of limitations proposal with which I

disagree. Your draft would impose a limitation period of five years from the date of the violation or two years from the date that violation was discovered "or should have been discovered through the exercise of reasonable diligence." As the Commission testified last year, the Commission supports a statute of limitations tied to the actual discovery of fraud rather than to the time when a plaintiff "should have" discovered the fraud.[1] A "reasonable diligence" standard is unfair to fraud victims because almost every defendant can allege that a plaintiff "should have" discovered a fraud earlier. Thus, this requirement would prompt a considerable amount of needless litigation to resolve subtle shadings of what an investor could or might have done. It would be ironic and unfortunate if a bill that is intended to reduce litigation included a provision that would significantly increase the cost of litigation in an unnecessary manner. While this provision may be sought by accountants and other groups, it is not justifiable, and its inclusion in any legislation would jeopardize the Commission's continuing support.

As noted, the Commission's testimony has previously endorsed proposals to lengthen the statute of limitations for implied actions under the securities laws and to prevent the kind of abusive litigation practices addressed in Section 5 of your bill. With these exceptions, the views I have expressed in this letter are my own, although my fellow Commissioners have reviewed this letter. Of course, I would be pleased to work with you to further improve the legislation. Please do not hesitate to have your staff contact Kathryn Fulton, Director of Legislative Affairs, at 272-2500.

Sincerely,

RICHARD C. BREEDEN,
Chairman.

Mr. SANFORD. Mr. President, I am pleased to join my colleague, the senior Senator from New Mexico, in introducing legislation entitled the "Securities Private Enforcement Act of 1992."

In 1990 and 1991, 614 class action securities cases—a record number—were filed in Federal courts against American companies. This number exceeded the total number of similar suits filed in the previous 5 years. Yet there is no evidence that this increase corresponds to a similar increase in the incidence of securities fraud.

These cases have touched many of America's largest and most well-known companies: Pace Membership Warehouse which is owned by Kmart, Apple Computer, Compaq, Seagate Technology, Oracle Systems, Wells Fargo Bank, and Citicorp to name a few. There is evidence, as noted by judges, that complaints filed in unrelated cases contained boilerplate allegations and were identical except for the names of the parties. In others, the complaints were filed in a matter of hours or days after the release of regularly scheduled earnings reports. Studies show that 95 percent or more of 10b-5 securities fraud cases are settled, compared to a much lower rate for other civil litigation. These studies show that plaintiffs recover very little—just a few pennies for each dollar claimed—while plaintiffs' lawyers average $1 million in fees for each case. The business press and academic research have noted that defendants have little choice but to settle these types of cases, even when they believe the claims to be completely warrantless because the cost of defense and the exposure to joint and several liability are so huge.

SEC Chairman Richard Breeden has noted that the "problem of meritless securities litigation * * * is a serious one" and that "such litigation imposes significant costs on the defendant, which * * * are ultimately borne by the issuer's shareholders." He further states that legislative reforms to deter meritless claims "would be highly beneficial." Chairman Breeden has commented that the current system fails to distinguish strong claims from weak or meritless claims.

Most importantly, as my distinguished colleague from New Mexico has pointed out, the present system is having a very harmful impact on the American economy. The evidence is mounting from many different sources.

High growth companies, high-technology companies, and startups typically experience volatile stock prices. Unfortunately, that fact alone has led to numerous suits against these companies. A number of computer technology companies have been sued a dozen times or more because of stock prices fluctuations reacting to earnings reports. One Federal judge commented, after suit was filed 2 days following an earnings announcement, that the plaintiff was on a "fishing expedition at the defendants' expense." I've talked to a dozen or more North Carolina companies who have faced or fear facing similar circumstances. The fear of being sued for complying with disclosure regulations or simply communicating accurate information which the market wants and deserves can only have a chilling effect on the free flow of important information.

Moreover, good companies are having difficulty attracting qualified individuals willing to serve on their boards of directors. Some companies are limited to selecting directors from a pool of less experienced individuals who are willing to serve but who are selected largely because of their low net worths. Often, more experienced, successful business managers are unwilling to put their life savings and reputations at risk. For those companies trying to retain and ensure the best directors they can find, their situations have been exacerbated by skyrocketing insurance costs which merely reflect the risk insurance companies face in guarding directors from suit. In the long run, this will hurt American businesses who are finding it more and more difficult to attract the most qualified people to serve on their boards. I served on corporate boards before coming to the Senate. I sometimes wonder if I would take that risk in today's environment.

In addition, the threat of litigation is making it more difficult and more expensive for companies to raise capital. Professionals who provide necessary services to public securities markets—underwriters, accountants, and lawyers—are being forced to charge higher and higher fees to cover their exposure to litigation risk. Furthermore, foreign companies are discouraged from raising capital in American markets. Foreign companies don't face this problem or bear these costs in their countries. This not only gives foreign companies a competitive advantage in raising capital, but it also gives them a competitive advantage by lowering their overall costs of both capital and production. While American executives in high growth companies must allocate too much of their time to defending these law suits, foreign executives can devote their full effort to running their businesses.

The impact on the accounting profession and those in need of audit services is growing particularly acute. The operation and health of securities and commercial lending markets are dependent upon the availability of independent audits. Yet it is becoming more difficult for some companies to buy an audit at any price because accountants are refusing to audit companies in high risk industries or with any apparent difficulties. In the face of this risk, many middle-sized and small accounting firms no longer provide audit services at all because of the associated risks. This places increased costs on smaller companies who must go with higher priced, larger firms, thereby making it more difficult for them to compete.

In other countries, accounting firms independently examine, analyze, and provide opinions on the future projections prepared by the management of public companies. This is an extremely valuable service to the market, but accountants in the United States will not provide that service because they know they will be sued if the projections turn out to be wrong. In the long run, this will make it more difficult for American companies to attract capital as capital markets become more global.

The mounting evidence simply does not support the notion that most of this litigation is meritorious. The six largest accounting firms have provided me with data on the final outcome of all 10(b) cases filed against them that concluded in 1991. The combined total

[1] "Securities Investor Legal Rights," Hearing on H.R. 3185 before the Subcommittee on Telecommunications and Finance of the Committee on Energy and Commerce, 102nd Cong., 1st Sess. 27-29 (1992) (prepared testimony of Richard C. Breeden, Chairman, SEC); "Securities Investor Protection Act of 1991," Hearing on S. 1533 before the Subcommittee on Securities of the Committee on Banking, Housing and Urban Affairs, 102d Cong., 1st Sess. 22-25 (1992) (prepared testimony of Richard C. Breeden, Chairman, SEC).

for all of these 10(b)(5) cases concluded in 1991 shows that the total amount of settlements and judgments paid by the accounting firms was only 3 percent of the claimed damages, and for every dollar they paid in damages, they paid legal costs of almost $1.30. The average case claimed $83 million in damages, yet was resolved by settlement or judgment for only $2.7 million at a legal cost of $3.5 million.

Even those averages overstate the case because all of those recoveries occurred in just a handful of cases. In 83 percent of the cases—or 5 out of every 6 cases—judgments and settlements paid by the accounting firms were less than 10 percent of the alleged claims. In fact, the total amount of judgments and settlements in this 83 percent of the cases was only one-third of 1 percent—that's right, well below 1 percent—of the total damages claimed. What the accounting firms could not defend themselves from in this group of cases was their legal fees. For every $1 ultimately paid to the plaintiffs in this overwhelming majority of the cases—83 percent of them—the accounting firms had to pay their own lawyers $8 in legal fees and other defense costs.

And most revealing, in almost 35 percent of the cases concluded in 1991, there was no recovery from the accounting firms at all, yet the cost of defending those claims was almost $25 million. By the end of 1991, the Big Six accounting firms were dedicating almost 10 percent of their gross accounting and auditing revenues to the cost of dealing with these claims, and the landscape looks even worse for 1992.

The evidence is clear on several counts. First, the securities laws are not functioning as an effective remedy for securities fraud. Second, the true victims of fraud when it does occur are receiving little, if any, recovery. Studies show that even in cases with merit, plaintiffs typically receive only between 5 and 15 cents for each dollar sought in the complaint. Third, a small group of professional plaintiffs and law firms specializing in class actions are holding innocent defendants hostage for millions of dollars in unjustified settlements.

Last year, the Supreme Court held in the Lampfe versus Gilbertson case that all private actions under section 10(b)(5) of the 1933 act would be governed by a statute of limitations of 1 year from the date the plaintiff knew of the fraud or in any event, no longer than 3 years from the date fraud was committed. The court also held that that these timeframes must be applied retroactively to all pending 10(b)(5) cases thereby voiding a number of recent judgments.

Senator BRYAN sponsored legislation last year establishing a longer limitation period of 2 years from the date the fraud was discovered or in any event, no longer than 5 years from the date the fraud was committed. It was Senator BRYAN's belief that providing a longer time period for plaintiffs to initiate securities fraud actions was necessary to ensure that plaintiffs had sufficient time to bring these actions. Others argued that extending the statute of limitations would open the door to meritless cases.

After holding a hearing, Senator BRYAN's bill was added to the Federal Deposit Insurance Corporation Improvement Act of 1991 with the support of the SEC. The expansion of the limitation periods was ultimately deleted, but the Congress did prohibit the retroactive application of the new shorter timeframes established by the Supreme Court. The concern then was that comprehensive reforms should address the entire issue of legitimate and frivolous securities fraud litigation rather than simply the statute of limitations for filing cases. This bill adopts the extended statute of limitations period of 2 years from the date fraud is discovered or with reasonable diligence should have been discovered or in any event, within 5 years from the date the fraud was committed.

As such, I believe this bill takes a balanced and reasonable approach in dealing with these problems. It is not intended to chill meritorious claims. In fact, with the safeguards incorporated in this bill, no plaintiff or class of plaintiffs should be reluctant to pursue their legitimate claims and attorneys should not fear representing them. The bill balances the interests of investors with the interests of the needs of the securities markets.

First, for the benefit of investors, the bill expands the statute of limitations from 3 years to 5 years from the date of violation, and it expands the statute of limitation from 1 year to 2 years from the date on which the violation was discovered or should have been discovered with reasonable diligence. This will give plaintiffs more time to prepare and file cases than they presently have.

Second, as a matter of fundamental fairness, it only requires defendants at fault to pay for the damage they caused. It does not require them to pay for the fault committed by others unless they knew about it. If defendants knew of the fraud, whether they committed it or not, they can be held liable for full joint and several liability and be required to pay any damages that other defendants cannot afford to pay. But if the defendants were unaware of the fraud, they should not pay for it. Like the plaintiffs, if the defendants were unaware of the fraud, they sit at the table as innocent victims.

Third, this bill discourages meritless litigation by permitting the court to put a party on notice that it may be held responsible for the other party's attorney fees if its case is not "substantially justified." It does not automatically shift fees and it is nothing near the so-called English rule where the loser pays the winner's legal fees. It permits the court to take a close look at the case upon the request of a party and to issue a ruling putting any party on notice that its case does not appear to meet the test of substantial justification. Thereafter, if that party fails to show substantial justification for its claim, the court has the discretion to require that party to pay the other party's attorney fees, but only from the time when the court puts the offending party on notice of the possibility.

This bill does not permit retroactive application of any fee shifting. It only permits the court to shift fees prospectively from the time the court becomes concerned and notifies a party that its claim appears to be frivolous. To a large extent, this rule is already in effect under rule 11 of the Federal Rules of Civil Procedure which permits the court to impose sanctions, including attorney's fees, if a party or its attorney failed to make a reasonable inquiry that its claim is well grounded in fact and is not interposed for any improper purpose. Rule 11, in fact, is a harsher remedy than our bill since it can be applied retroactively and since it does not require the court to provide advance notice of its concern about the substance of a party's claim before imposing sanctions.

Fourth, this bill eliminates several abusive tactics which Richard Breeden, Chairman of the SEC, says is, and I quote, "frequently found in securities class action litigation." It contains provisions which would:

First, prohibit attorneys from paying referral fees when seeking clients for class actions;

Second, prohibit conflicts of interest between class members and class counsel;

Third, limit recovery for representative plaintiffs to the same pro rata recovery for all members of the class, and

Fourth, prohibit the payment of attorney fees from SEC disgorgement funds.

Finally, at the request of the SEC, this bill contains a provisions that expands the reach of the SEC's subpoena power to equal that which many other Federal agencies have. This will permit the SEC to eliminate much of the duplication of its efforts in prosecuting its cases. Because of the lack of this power, the SEC is often unable to get a witness to trial and is limited to using transcript evidence. Therefore, this provision will strengthen the Government's hand in prosecuting securities fraud and will reduce the taxpayer's costs.

Certainly, the language of this bill is not perfect. Its intent is to balance the interests of the defrauded investors with the need for securities markets to

be able to issue and trade securities with fair financial information supported by meaningful audit opinions. It is an effort to discourage the use of the legal process as a witch hunt if market prices move either up or down. And it is designed to encourage the free flow of more—not less—relevant information to the securities markets.

Today, high growth and high-technology companies know that if their earnings fall, they could be sued. There is even a growing class of cases where suits are filed when stock prices go up. This is not how free markets are supposed to operate. Markets operate best with a free flow of information. The art of running a business is in managing the risks it faces. In the normal course of any business, some risks will prove successful, others will not. In theory, the price of a security reflects the market's judgment of how well the business managed those risks, but the stock market is not purely scientific. Prices fluctuate for any number of reasons, but the mere experience of a price fluctuation should not be grounds for fraud suit.

Chairman Breeden of the Securities and Exchange Commission has been every active in promoting reform of securities fraud litigation. He has independently advocated the extension of the statute of limitations, has testified on several times that there is a serious problem with frivolous litigation, and has encouraged numerous reforms. Among those recommendations made by Chairman Breeden are those included in our bill. In addition, the staff of SEC has provided extensive technical assistance in its preparation. We look forward to hearing formally from the Commission of its views on this legislation.

In his letter to Senator DOMENICI and me commenting on the bill, he wrote:

> Any litigation imposes significant costs on the defendant, which costs are ultimately borne by the shareholders. A mere change in market price should not be sufficient to impose these legal costs, unless coupled with some reasonable basis for believing that wrongdoing occurred.

We all agree that in those cases where the defendant erred causing harm to plaintiffs, the plaintiffs should be able to recover their losses. Nothing in this legislation should either discourage harmed plaintiffs from pursuing their claims or hinder plaintiffs from receiving their rightful recovery.

We believe this legislation makes sense and reflects what the law should be doing anyway. The law should protect investors from fraud and make those who commit it pay for it. But it should not penalize those who cause no harm and it should not impose unnecessary costs on companies who rely upon securities markets for raising capital.

Mr. DURENBERGER (for himself, Mr. WOFFORD, Mr. ROCKEFELLER, Mr. DASCHLE, Mr. KASTEN, and Mr. KOHL):

S. 3182. A bill to amend the Trade Act of 1974 with respect to articles not eligible for duty-free treatment under the Generalized System of Preferences; to the Committee on Finance.

DUTY-FREE TREATMENT FOR CERTAIN ARTICLES

• Mr. DURENBERGER. Mr. President, I rise today to introduce S. 3182, a bill to reform the generalized system of preferences [GSP] trade program to require a 3-year waiting period before denied petitions can be refiled.

Mr. President, in 1991 the State Department attempted, in my view, to use the GSP Program to fulfill foreign policy objectives. This was done at the expense of the American dairy, mushroom, wine, glassware, chemical, and pharmaceutical industries—just to list a few. Congressional and industry pressure was victorious in denying a petition for Goya cheese from Hungary and some wine petitions, however other industries like pork wound up losing out. My fear is that if Congress permits the executive branch to use the GSP Program as a foreign policy tool, it will set a precedent that could be damaging to domestic industries in the future.

On July 12, 1991, the White House announced that, as part of a Trade Enhancement Initiative for Central and Eastern Europe, previously rejected GSP petitions from these countries would be reconsidered. This announcement was made despite a Federal regulation that prohibits rejected GSP petitions from being refiled within 3 years. Furthermore, in the case of Goya cheese, mushrooms, and grape wine, petitions from Hungary had been rejected by the President on May 3, 1991. On August 8, 1991, just 3 months later, the Trade Policy Staff Committee announced that it would reconsider these items.

Small industries like the dairy industry need to be protected from the costly and time-consuming burdens of having to constantly defend themselves from GSP petitions. Small industries simply do not have the funds to defend themselves more than once every 3 years. Under the current system, these industries will either be devastated by the cost of lawyers fees or the influx of heavily subsidized, duty- and quota-free, foreign products. By requiring a 3-year waiting period, my bill injects a needed dose of fairness into the GSP trade program.

Mr. President, S. 3182 is not very complicated and it is very needed. I urge my colleagues to join me in support of this important legislation.•

Mr. WOFFORD. Mr. President, I rise in support of S. 3182, a bill to amend the Trade Act of 1974 with respect to articles not eligible for duty-free treatment under the Generalized System of Preferences.

Authority for this program will terminate on July 4, 1993, and the Congress, no doubt, will conduct a complete review of the operation and provisions of the program in the context of anticipated proposals for reauthorization. Already the GAO, at the request of the Senate, is conducting an extensive investigation of this program.

The findings of this investigation are eagerly anticipated by the Congress, and domestic import sensitive interests who have borne the burden of defending themselves on numerous occasions from repetitive GSP petitions. Also, my colleagues and I are concerned about the administrative authority to waive regulations regarding the GSP process.

In 1991, the administration initiated a review of petitions that had been denied eligibility only months before in order to add products to the GSP Program for Central and Eastern European countries. As a result, petitions on Goya cheese and wine from Hungary, and other products, such as glassware and mushrooms, on which GSP status had been denied were again reviewed.

This was done contrary to an agreement between the executive and legislative branches reached during the reauthorization of the GSP Program in 1986; that is, the U.S. Trade Representative guaranteed the Congress that products would not be reconsidered for a 3-year waiting period following a previous denial of eligibility.

Therefore, a statutory requirement at this time is necessary so that domestic industries do not have to bear the burden and expenses of repetitive presentations of their cases in defending themselves. It is our intention to make the codification of the 3-year rule a reality prior to the expiration of this Congress in order to demonstrate to our import-sensitive domestic industries that the U.S. Senate is not insensitive to their vulnerability.

Likewise, I believe that this will send an important signal to these same industries that a full review of the GSP Program operations will be forthcoming during the 103d Congress, at which time their extensive suggested changes to the GSP Program will be entertained by the Congress.

My colleagues and I would welcome others to join in this small but important gesture toward our import-sensitive constituencies.

By Mr. DASCHLE (for himself and Mr. BINGAMAN):

S. 3183. A bill to amend the Public Health Service Act to provide a comprehensive program for the prevention of Fetal Alcohol Syndrome, and for other purposes; to the Committee on Labor and Human Resources.

COMPREHENSIVE FETAL ALCOHOL SYNDROME PREVENTION ACT

Mr. DASCHLE. Mr. President, today I am introducing legislation to address the human tragedy of Fetal Alcohol Syndrome and Fetal Alcohol Effect.

My distinguished colleague, Senator Bingaman, joins me as an original cosponsor of this legislation.

Mr. President, FAS and FAE, as they are known, are the leading known cause of mental retardation. FAS is a cause of mental retardation which is completely—100 percent—preventable. My own awareness of the enormous human cost that substance abuse during pregnancy has on the children of the United States was brought into sharp focus during hearings I chaired in South Dakota. During those hearings, there was vivid testimony about the devastating consequences wrought by the alcohol and substance abuse in pregnant women.

Research performed over the past 20 years has clearly shown that drinking alcohol during pregnancy increases the risk of stillbirth and miscarriage and may result in serious birth defects. When a pregnant woman ingests alcohol, the alcohol passes swiftly to the unborn fetus. The fetus' organs, since they are immature, metabolize alcohol much more slowly than it is metabolized in an adult. As a result, the alcohol level in the fetus' blood can be higher than in the mother's blood and can remain elevated for a much longer period of time, causing the baby to suffer lifelong damage before it is ever born. The most heartbreaking facet of this damage is that it is completely preventable.

Each year in the United States, one out of every 750 newborn babies is born with FAS. As many as 40 percent of babies whose mothers drink heavily during pregnancy may have the syndrome. The syndrome itself consist of babies who are abnormally small at birth and rarely catch up as they grow. They typically have small eyes, a short upturned nose and small flat cheeks. Their organs may not form properly and most have small heads and brains. They are almost always mentally retarded, with IQs of 60 to 75 being common. Most are poorly coordinated and hyperactive, they have short attention spans, and they exhibit behavioral and learning problems.

Even "moderate" amounts of alcohol during pregnancy also may damage the fetus. Many children are born with fetal alcohol effect [FAE], which is characterized by some—though not all—of the birth defects associated with FAS. It is estimated that almost 50,000 babies are born each year with evidence of FAE. They may also be small at birth and unlikely to catch up in growth; they may be restless as newborns, and display abnormal behavior and have lower IQs. Unfortunately, this constellation of findings is not well-defined, so that the incidence of both FAS and FAE is likely to be severely under-reported.

The statistics I have just given my colleagues are those for the population as a whole. Nowhere are the ravages of alcohol on children more evidence than among American Indians and Alaska Natives. Among these proud people, as many as one in four newborns may be affected by FAS or FAE. In some Indian communities, where alcohol dependency rates reach 50 percent and more, the chances of a newborn suffering FAS or FAE are 30 times greater than the national averages.

Mr. President, this legislation, The Comprehensive Fetal Alcohol Syndrome Prevention Act, will address this national tragedy. This bill will establish a comprehensive program within the Department of Health and Human Services to help prevent FAS and FAE. It will create a new program with the Centers for Disease Control and Prevention which will coordinate and support applied epidemiologic research targeted at FAS and FAE. This program will coordinate and support national public awareness, prevention, and education programs on FAS and FAE. It will also assist in establishing and conducting nationwide FAS and FAE surveillance and monitoring of prevention programs. It will convene a panel of national experts to develop clear and definitive diagnostic criteria for FAE. Among our most pressing needs, it will focus efforts on particular at-risk populations, most notably American Indians and Alaska Natives.

There are some existing programs with both Federal and State governments that deal with some aspects of alcohol and substance abuse, but, in an all-too-familiar pattern, these programs are frequently unaware of the activities of other programs. Therefore, our legislation would create an Inter-Agency Task Force on FAS/FAE. This task force, chaired by the Associate Administrator for Alcohol Prevention and Treatment of the Substance Abuse and Mental Health Services Administration, will include representatives from all of the relevant agencies. It will foster coordination among all Federal agencies that conduct or support FAS/FAE research, programs, and surveillance efforts.

Mr. President. I believe that it is time to put an end to this tragedy. We can only do so if we have adequate knowledge about its extent, its cost, and the most effective strategies to combat it. I urge my colleagues to support this measure to ensure that we have that knowledge.

I ask unanimous consent that the full text of the Comprehensive Fetal Alcohol Syndrome Prevention Act and a brief fact sheet on the bill be printed in the RECORD.

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

S. 3183

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Comprehensive Fetal Alcohol Syndrome Prevention Act".

SEC. 2. FINDINGS.

Congress finds that—

(1) Fetal Alcohol Syndrome is the leading known cause of mental retardation, and it is 100 percent preventable;

(2) each year, more than 5,000 infants are born in the United States with Fetal Alcohol Syndrome, suffering irreversible physical and mental damage;

(3) 50,000 more infants are born each year with lesser, though still serious, alcohol-related birth defects, known as Fetal Alcohol Effects;

(4) of women who drink heavily during pregnancy, two out of five will give birth to a Fetal Alcohol Syndrome baby, and as many as one in six women of childbearing age may drink enough to threaten a healthy pregnancy;

(5) Fetal Alcohol Syndrome is a national problem, it can impact any child, family, or community, but its threat to American Indian and Alaska Natives is especially alarming;

(6) among American Indian and Alaska Natives, as many as one in four newborns may be affected by Fetal Alcohol Syndrome or Fetal Alcohol Effects;

(7) in some American Indian communities, where alcohol dependency rates reach 50 percent and above, the chances of a newborn suffering Fetal Alcohol Syndrome or Fetal Alcohol Effects are 30 times greater than national averages;

(8) researchers have determined that the certainty of giving birth to a Fetal Alcohol Syndrome or Fetal Alcohol Effects baby increases in proportion to the amount and frequency of alcohol consumed by a pregnant woman, and that stopping alcohol consumption at any point in the pregnancy reduces the risks and the emotional, physical, and mental consequences of alcohol exposure to the baby;

(9) in addition to the immeasurable toll on Fetal Alcohol Syndrome and Fetal Alcohol Effects children and their families, Fetal Alcohol Syndrome and Fetal Alcohol Effects pose extraordinary costs to the Nation, in terms of health care, education, foster care, job training, and general support services;

(10) as a reliable comparison, delivery and care costs are four times greater for infants who were exposed to illicit substances than for infants with no indication of substance exposure, and over a lifetime, health care costs for one Fetal Alcohol Syndrome child are estimated at $1,400,000; and

(11) we know of no safe dose of alcohol during pregnancy, or of any safe time to drink during pregnancy, thus, it is in the best interest of the Nation for the Federal Government to take an active role in encouraging all women to abstain from alcohol consumption during pregnancy.

SEC. 3. PURPOSE.

It is the purpose of this Act to establish, within the Department of Health and Human Services, a comprehensive program to help prevent Fetal Alcohol Syndrome and Fetal Alcohol Effects nationwide. Such program shall—

(1) coordinate and support applied epidemiologic research concerning Fetal Alcohol Syndrome and Fetal Alcohol Effects;

(2) coordinate and support national and targeted public awareness, prevention, and education programs on Fetal Alcohol Syndrome and Fetal Alcohol Effects;

(3) assist in establishing and conducting nation-wide Fetal Alcohol Syndrome and

Fetal Alcohol Effects surveillance and monitoring of prevention programs; and

(4) foster coordination among all Federal agencies that conduct or support Fetal Alcohol Syndrome and Fetal Alcohol Effects research, programs, and surveillance and otherwise meet the general needs of populations actually or potentially impacted by Fetal Alcohol Syndrome and Fetal Alcohol Effects.

SEC. 4. ESTABLISHMENT OF PROGRAM.

Part D of title V of the Public Health Service Act (42 U.S.C. 290dd et seq.) is amended by adding at the end thereof the following new subpart:

"Subpart 3—Provisions Relating to Fetal Alcohol Syndrome and Fetal Alcohol Effects

"SEC. 551. ESTABLISHMENT OF FETAL ALCOHOL SYNDROME PREVENTION PROGRAM.

"(a) IN GENERAL.—The Secretary, acting through the Centers for Disease Control and other relevant offices, shall establish a comprehensive program to help prevent Fetal Alcohol Syndrome and Fetal Alcohol Effects and coordinate Federal efforts in Fetal Alcohol Syndrome and Fetal Alcohol Effects.

"(b) ELEMENTS OF PROGRAM.—Under the program established under subsection (a), the Secretary shall—

"(1) direct the Director of the Centers for Disease Control to establish a program that shall—

"(A) coordinate and support applied epidemiologic research concerning Fetal Alcohol Syndrome and Fetal Alcohol Effects;

"(B) coordinate and support national and targeted public awareness, prevention, and education programs on Fetal Alcohol Syndrome and Fetal Alcohol Effects;

"(C) assist in establishing and conducting nationwide Fetal Alcohol Syndrome and Fetal Alcohol Effects surveillance and monitoring of prevention programs; and

"(D) convene a panel of national experts to develop diagnostic criteria for Fetal Alcohol Effects; and

"(2) establish an Inter-Agency Task Force on Fetal Alcohol Syndrome and Fetal Alcohol Effects, which shall be chaired by the Associate Administrator for Alcohol Prevention and Treatment of the Substance Abuse and Mental Health Services Administration, and which shall include representatives from all relevant agencies and offices within the Department of Health and Human Services, Department of Agriculture, Department of Education, Department of Defense, Department of Interior, Department of Justice, Bureau of Alcohol, Tobacco and Firearms, Federal Trade Commission, and any other relevant Federal Agency.

"SEC. 552. APPLIED EPIDEMIOLOGIC RESEARCH AND PREVENTION PROGRAM.

"The Director of the Centers for Disease Control, shall—

"(1) conduct and support research on the causes, mechanisms, diagnostic methods, and treatment and prevention of Fetal Alcohol Syndrome and Fetal Alcohol Effects;

"(2) provide technical and consultative assistance and training to States, Indian tribal governments, local governments, other public entities, scientific and academic institutions, and non-profit organizations engaged in the conduct of—

"(A) Fetal Alcohol Syndrome prevention and early intervention programs; and

"(B) research relating to the causes, mechanisms, diagnosis methods, treatment and prevention, of Fetal Alcohol Syndrome and Fetal Alcohol Effects; and

"(3) award grants to, and enter into cooperative agreements and contracts with States, Indian tribal governments, local governments, other public entities, scientific and academic institutions, and non-profit organizations to—

"(A) assist such entities in conducting innovative demonstration and evaluation projects designed to determine effective strategies, including community-based prevention programs and multi-cultural education campaigns, for preventing and intervening in fetal exposure to alcohol;

"(B) improve and coordinate the surveillance and ongoing assessment methods implemented by such entities and the Federal Government, with respect to Fetal Alcohol Syndrome and Fetal Alcohol Effects for the purpose of—

"(i) tracking progress toward achieving relevant Year 2000 Prevention Objectives, set forth by the Public Health Service in the Healthy People 2000: National Health Promotion and Disease Prevention Objectives;

"(ii) identifying successful, culturally sensitive prevention efforts; and

"(iii) identifying children who have symptoms of Fetal Alcohol Syndrome and Fetal Alcohol Effects and may and need special health, education, and support services;

"(C) develop and evaluate effective age-appropriate and culturally-sensitive prevention programs for infants, children, adolescents, and adults identified as being at-risk of becoming chemically dependent on alcohol and associated with or developing Fetal Alcohol Syndrome and Fetal Alcohol Effects; and

"(D) facilitate coordination and collaboration among Federal, State, Tribal, and local Fetal Alcohol Syndrome prevention programs.

"SEC. 553. FETAL ALCOHOL SYNDROME AND FETAL ALCOHOL EFFECTS SURVEILLANCE AND PREVENTION PROGRAM ASSESSMENT.

"The Secretary, acting through the Director of the Centers for Disease Control, shall—

"(1) develop, conduct, and evaluate Fetal Alcohol Syndrome and Fetal Alcohol Effects surveillance and prevention programs;

"(2) provide technical and consultative assistance to States, Indian tribal governments, local governments, scientific and academic institutions, and non-profit organizations concerning the surveillance and assessment of the incidence of Fetal Alcohol Syndrome and Fetal Alcohol Effects and the assessment and evaluation of prevention, education, and public awareness programs with respect to such syndrome and effects; and

"(3) award grants to and enter into cooperative agreements and contracts with States and Indian tribal governments to—

"(A) assist such States and Tribal governments in initiating and improving methods and mechanisms needed to conduct effective Fetal Alcohol Syndrome and Fetal Alcohol Effects surveillance; and

"(B) enable such States and Tribal governments in evaluating the effectiveness of community-based Fetal Alcohol Syndrome prevention, education, and public awareness projects.

"SEC. 554. EDUCATION AND PUBLIC AWARENESS.

"The Secretary, acting through the Director of the Centers for Disease Control, shall—

"(1) conduct and evaluate the effectiveness of—

"(A) training programs for health care providers, educators, social workers, child welfare workers and family members concerning the prevention, diagnosis, and treatment of Fetal Alcohol Syndrome and Fetal Alcohol Effects;

"(B) prevention and education programs, including health education, for all school-age children with respect to such syndrome and effects; and

"(C) public and community awareness programs concerning such syndrome and effects;

"(2) provide technical and consultative assistance to States, Indian tribal governments, local governments, scientific and academic institutions, and non-profit organizations concerning the programs referred to in paragraph (1); and

"(3) award grants to and enter into cooperative agreements and contracts with States, Indian tribal governments, local governments, scientific and academic institutions, and non-profit organizations for the purpose of—

"(A) enabling such entities to evaluate the effectiveness, with particular emphasis on the cultural sensitivity and age-appropriateness, of the education and public awareness programs referred to in paragraph (1);

"(B) enabling such entities to provide training to health care providers, educators, family members, social workers, child welfare workers, and others in the prevention, diagnosis and treatment of Fetal Alcohol Syndrome and Fetal Alcohol Effects;

"(C) educating children and youth concerning such syndrome and effects through sequential school health education programs, with priority given to those programs that are part of a sequential, comprehensive school health education program; and

"(D) increasing public and community awareness concerning Fetal Alcohol Syndrome and Fetal Alcohol Effects through culturally sensitive projects, programs, and campaigns, and improving the understanding of the general public and targeted groups concerning the most effective methods for intervening with friends and family to prevent fetal exposure to alcohol.

"SEC. 555. DIAGNOSTIC CRITERIA FOR FETAL ALCOHOL EFFECTS.

"Not later than 90 days after the date of enactment of this subpart, the Secretary, acting through the Director of the Centers for Disease Control, shall—

"(1) convene a panel of nationally-recognized experts to develop a set of diagnostic criteria for Fetal Alcohol Effects; and

"(2) direct such panel to develop a plan for widely-disseminating the criteria to health care providers, educators, social workers, child welfare workers, and other individuals within 16 months of such date of enactment.

"SEC. 556. INTER-AGENCY TASK FORCE ON FETAL ALCOHOL SYNDROME AND FETAL ALCOHOL EFFECTS.

"(a) ESTABLISHMENT.—Not later than 30 days after the date of enactment of this subpart, the Secretary shall establish an Inter-Agency Task Force on Fetal Alcohol Syndrome and Fetal Alcohol Effects to foster coordination among all Federal agencies that conduct or support Fetal Alcohol Syndrome and Fetal Alcohol Effects research, programs, and surveillance and otherwise meet the general needs of populations actually or potentially impacted by Fetal Alcohol Syndrome and Fetal Alcohol Effects.

"(b) MEMBERSHIP.—The Task Force established under subsection (a) shall—

"(1) be chaired by the Associate Administrator for Alcohol Prevention and Treatment of the Substance Abuse and Mental Health Services Administration and staffed by the Administration; and

"(2) include representatives from all relevant agencies and offices within the Department of Health and Human Services, Department of Agriculture, Department of Education, Department of Defense, Department of Interior, Department of Justice, Bureau of

Alcohol, Tobacco and Firearms, Federal Trade Commission, and any other relevant Federal agency.

"(c) FUNCTIONS.—The Task Force established under subsection (a) shall—

"(1) coordinate all Federal programs and research concerning Fetal Alcohol Syndrome, Fetal Alcohol Effects, and other forms of maternal substance abuse, including those programs—

"(A) targeting individuals, families, and populations identified as being at risk of acquiring Fetal Alcohol Syndrome, Fetal Alcohol Effects, or other maternal substance abuse; and

"(B) providing health, education, treatment, and social services to infants, children, and adults with Fetal Alcohol Syndrome, Fetal Alcohol Effects, and other drug exposures and their families; and

"(2) report on an annual basis to the Secretary and relevant Committees of Congress on the current and planned activities of the participating agencies.

"SEC. 557. ADMINISTRATIVE PROVISIONS WITH RESPECT TO GRANTS, COOPERATIVE AGREEMENTS AND CONTRACTS.

"(a) ELIGIBILITY.—To be eligible to receive a grant, cooperative agreement or contract under this subpart, an entity shall—

"(1) be a State, Indian tribal government, local government, scientific or academic institution or non-profit organization;

"(2) prepare and submit to the Secretary an application at such time, in such manner, and containing such information as the Secretary may prescribe, including a description of the activities that the entity intends to carry out using amounts received under a grant, cooperative agreement, or contract; and

"(3) provide assurances that amounts received under such grants, cooperative agreements or contracts will be used in accordance with this subpart.

"(b) MAINTENANCE OF EFFORT.—No grant, cooperative agreement, or contract may be awarded to an entity under this subpart unless the entity agrees to maintain the expenditures of the entity for activities of the type for which the amounts to be received under a grant, cooperative agreement, or contract are to be used, at a level equal to not less than the level of such expenditures maintained by the entity for the fiscal year preceding the fiscal year for which the entity is applying to receive the grant, cooperative agreement or contract.

"(c) AMOUNTS OF LIEU OF CASH.—At the request of a recipient of a grant, cooperative agreement, or contract under this subpart, the Secretary may reduce the amount provided under such grant, agreement, or contract by—

"(1) an amount equal to the fair market value of any supplies or equipment furnished the recipient; and

"(2) an amount equal to the amount of the pay, allowances, and travel expenses of any officer or employee of the Federal Government which was detailed to the recipient and the amount of any other cost incurred in connection with the detail of such officer or employee.

"SEC. 556. AUTHORIZATION OF APPROPRIATIONS.

"There are authorized to be appropriated to carry out this subpart, $20,000,000 for fiscal year 1993, and such sums as may be necessary for each of the fiscal years 1994 through 1996.".

By Mr. ADAMS (for himself and Mr. METZENBAUM):

S. 3184. A bill to amend the Employee Retirement Income Security Act of 1974 to expand pension coverage, to improve pension portability, and to increase retirement savings, and for other purposes; to the Committee on Labor and Human Resources.

PRIVATE PENSION REFORM ACT

Mr. ADAMS. Mr. President, I am pleased to rise today to introduce legislation that would provide retirement security to America's workers. This legislation, the Private Pension Reform Act—Retirement 2000, would expand pension coverage to virtually every full-time worker, provide for pension portability, and increase retirement savings.

I am pleased that Senator METZENBAUM, a leader on pension issues, is joining me, today, in introducing this legislation. It is fitting that we do this together, as chairmen of the Subcommittee on Aging and the Subcommittee on Labor, thus bringing together the two key elements of this issue.

By the year 2020, more than 50 million Americans will be age 65 or older. Yet, less than half of today's full-time workers are covered by an employer-sponsored pension plan. Many of these people, who otherwise have enjoyed an adequate living standard throughout their working years, will be reduced to poverty, or near poverty, during retirement. For others, retirement will never be an option. This is a sad commentary on the way America treats its hard-working citizens in their golden years.

More and more, the responsibility of planning and saving for retirement is falling on workers. However, data show that many workers cannot provide for their own retirement. Only 24 percent of eligible workers participate in IRA's or other deferred savings plans. Workers who participate in such plans are more likely also to be covered by a pension plan at work than nonparticipants. And the average income of participants is nearly twice that of nonparticipants. Clearly, those who do not have pension coverage through an employer are the very individuals who can least afford to save for their own retirement.

Mr. President, workers who cannot afford a do-it-yourself retirement must often rely on Social Security benefits as their sole source of retirement income. While Social Security benefits play a vital role in providing a basic income floor, they form but one leg of a sound retirement formula. Social Security benefits generally will replace only about one-fourth of an employee's pre-retirement income.

At age 62, for example, an employee with a final salary of $25,000 after 40 years of covered service could expect Social Security to replace 31 percent of pre-retirement income, or $7,825 per year. For the same worker with a final salary of $35,000, the Social Security replacement rate is 24 percent, or $8,500 per year; and for the worker whose final salary is $45,000, it is less than 20 percent, or $8,775 per year.

Research shows, however, that a replacement ratio as high as 82 percent is needed in order for retirees to maintain their pre-retirement standard of living.

An employer-sponsored pension plan would provide the critical missing link for over one-half of all American workers. It could make the difference between an adequate retirement or a retirement which reduces one to near poverty.

The costs and implications of the failure to secure the futures of hard-working American workers, both in our economy and on our society are enormous. This legislation would go a long way toward: First, expanding coverage to those who, heretofore, have not had coverage and second, providing continuity in the coverage. It would extend pension coverage and portability to virtually all full-time workers and to most part-time workers, as well.

This bill would require that all employers establish and maintain minimum benefit pension plans, and that employers contribute to such plans, thus shifting part of the burden of planning and saving for retirement away from employees.

A large portion of small businesses do not offer pension plans. Over 80 percent, or 28 million full-time employees, of companies with fewer than 100 workers now lack pension coverage. Many of these workers have incomes substantially below those of covered workers. It should not be surprising, then, that many of these individuals are unable to save for retirement. Expanding coverage to these employees is essential.

We have attempted to meet the concerns of small business by requiring a very modest contribution of only 3 percent on the part of employers. Of course, a larger contribution would mean a higher benefit; but this legislation would go a long way in establishing universal coverage and ensuring some level of retirement income security for all American workers.

This bill would also require that all qualified plans maintain companion portable pension accounts. This provision addresses the need to close the gaps in coverage for those workers who for one reason or another will change jobs several times during their working years. The average worker changes jobs about eight times during his or her career. In fact, current ongoing job tenure is less than 5 years.

While many employers offer pension coverage to their employees, vesting—the granting of pension rights that cannot be forfeited—may not occur until about 3, or ever 5, years of service. Thus, although an employee technically may be covered by a pension plan, he or she may not actually ever be eligible to participate in the plan as a result of changing jobs. This legislation requires vesting after 1 year of

service. And it provides for the transfer of an employee's accrued benefits to a portable pension account.

Mr. President, this bill is an important first step toward ensuring the economic security of America's future retirees. Recently, the Citizens Commission on Pension Policy held a press briefing to address the current state of retirement systems in America. At that press briefing, the Commission focused on this legislation as a model for the Nation to look at in addressing the need to establish pension coverage and portability for all workers.

It is noteworthy that two groups as distinct from one another as the Institute of Electrical and Electronics Engineers and the Older Women's League have endorsed this legislation. In endorsing this legislation, the IEEE has stated that "at the same time that it contributes to greater retirement security for millions of American workers, it will also substantially increase the pool of savings needed for productive investment in the Nation's economy." The Older Women's League has cited pension portability and earlier vesting as two features that will greatly improve women's chances of pension income in late life.

I believe this legislation is a good starting point for a national dialog on pension reform. Although I won't be here next year to move this issue forward, Senator METZENBAUM is committed to promoting pension reform in the next Congress. I am confident, that under his leadership and with the help of all our colleagues in the Congress, we can make retirement income security a reality for all American workers.

I ask my colleagues to join me in cosponsoring this important piece of legislation and I ask unanimous consent that a copy of the bill be printed in the RECORD, along with a summary of the provisions, endorsement letters from the IEEE and the Older Women's League, and a copy of a press release by the Citizens Commission on Pension Rights.

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

S. 3184

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 "Private Pension Reform Act—Retirement 2000".

TITLE I—PORTABLE PENSION ACCOUNTS

SEC. 101. REQUIREMENT OF PORTABLE PENSION ACCOUNTS.

(a) IN GENERAL.—Part 2 of title I of the Employee Retirement Income Security Act of 1974 is amended by inserting after section 205 the following new section:

"SEC. 205A. PORTABILITY REQUIREMENTS FOR QUALIFIED PLANS.

"(a) GENERAL RULES.—

"(1) QUALIFIED PLANS.—Each qualified plan shall—

"(A) maintain a portable pension account for receipt of direct trustee-to-trustee transfers from other qualified plans or other portable pension accounts, and

"(B) at the election of an employee upon separation from service, make a direct trustee-to-trustee transfer of the portion of the employee's eligible amount specified in the election to a portable pension account specified in the election.

"(2) INDIVIDUALS.—An individual may—

"(A) establish a portable pension account on the individual's own behalf to which transfers described in paragraph (1)(B), or transfers from other portable pension accounts, may be made, and

"(B) transfer, in a direct trustee-to-trustee transfer, amounts in a portable pension account established on the individual's behalf to a portable pension account maintained by a qualified plan in which the individual is a participant or to another portable pension account established by the individual on the individual's own behalf.

"(b) PORTABLE PENSION ACCOUNTS.—For purposes of this section—

"(1) IN GENERAL.—The term 'portable pension account' means—

"(A) in the case of an employer, an individual account plan, an individual account within a qualified plan, or simplified employee pension under section 408(k) of the Internal Revenue Code of 1986 meeting the requirements of the following paragraphs of this subsection, and

"(B) in the case of an individual, an individual retirement plan meeting such requirements.

"(2) DISTRIBUTION REQUIREMENTS.—

"(A) IN GENERAL.—The requirements of this paragraph are met if distributions from the account—

"(i) may only be made in a permitted retirement income form, and

"(ii) may only be made with the consent of the participant.

"(B) PERMITTED RETIREMENT INCOME FORM.—For purposes of subparagraph (A), a permitted retirement income form is as follows:

"(i) A qualified joint and survivor annuity (within the meaning of section 205(d)).

"(ii) Any other joint life annuity (including a cash refund annuity).

"(iii) A single life annuity (including a cash refund annuity).

"(iv) Any series of substantially equal periodic payments described in section 72(t)(2)(A)(iv) of the Internal Revenue Code of 1986 which are not part of an annuity described in the preceding clauses.

"(C) SPOUSAL CONSENT.—The requirements of this paragraph shall not be met unless the account provides that any election as to form of benefit must meet spousal consent requirements which are identical to the requirements of section 205(c)(2).

"(3) ASSET CONTROL.—The requirements of this paragraph are met if the account provides that participants may elect to exercise control over the assets in their accounts and such control is the same as that described in section 404(c) (as determined under regulations prescribed by the Secretary).

"(4) NOTICE.—The requirements of this paragraph are met if the account provides that, immediately before any distribution, notice is provided to the recipient with respect to—

"(A) the provisions under which the distribution may or may not be subject to tax or penalty under the Internal Revenue Code of 1986, and

"(B) the terms and conditions of each permitted retirement income form under paragraph (2) (including the terms and conditions of any spousal consent requirements under paragraph (2)(C)).

"(c) ELIGIBLE AMOUNT.—For purposes of this section—

"(1) IN GENERAL.—The term 'eligible amount' means, with respect to any participant—

"(A) in the case of a defined benefit plan, the present value of the participant's nonforfeitable accrued benefits under the plan, and

"(B) in the case of a defined contribution plan, the balance to the credit of the participant as of the time of the distribution, without regard to any reductions on account of back-end loads, market value adjustments, early withdrawal charges, or any other charges or penalties.

"(2) EMPLOYEE CONTRIBUTIONS.—The eligible amount shall include employee contributions.

"(3) PRESENT VALUE.—For purposes of paragraph (1)(A)—

"(A) IN GENERAL.—The present value of accrued benefits of a participant—

"(i) shall be determined by using a discount rate of not more than 3 percent, and

"(ii) shall not be reduced by the use of mortality or other actuarial factors.

"(B) PHASE-IN.—For plan years beginning in 1993, 1994, or 1995, the following percentages shall be substituted for 3 percent in subparagraph (A)(i):

"For plan years beginning in	The percentage is:
1993	6
1994	5
1995	4.

"(d) OTHER DEFINITIONS AND RULES.—For purposes of this section—

"(1) QUALIFIED PLAN.—The term 'qualified plan' means—

"(A) a plan described in section 401(a) of the Internal Revenue Code of 1986 which includes a trust which is exempt from tax under section 501(a) of such Code,

"(B) an annuity plan described in section 403(a) of such Code, and

"(C) an annuity contract described in section 403(b) of such Code.

"(2) INDIVIDUAL RETIREMENT PLAN.—The term 'individual retirement plan' means—

"(A) an individual retirement account described in section 408(a) of such Code, and

"(B) an individual retirement annuity described in section 408(b) of such Code.

"(3) BENEFICIARIES OR ALTERNATE PAYEES.—In the case of an individual who is a beneficiary of the participant or an alternate payee (within the meaning of section 206(d)(3)(K)) under a plan, such individual shall be treated in the same manner as if a participant in the plan."

(b) CONFORMING AMENDMENTS.—

(1) Section 204(g)(2) of such Act (29 U.S.C. 1054(g)(2)) is amended by adding at the end the following new sentence: "Except as otherwise provided in regulations of the Secretary of Labor and the Secretary of the Treasury, the requirements of subparagraph (B) shall not be treated as violated in the case of a direct trustee-to-trustee transfer described in section 205A."

(2) Section 204(d) of such Act (29 U.S.C. 1054(d)) is amended—

(A) in paragraph (1), by striking "or",

(B) in paragraph (2), by striking the period and inserting ", or", and

(C) by inserting after paragraph (2) the following new paragraph:

"(3) a direct trustee-to-trustee transfer described in section 205A."

(3) The table of contents for part 2 of subtitle B of title I of such Act is amended by

inserting after the item relating to section 205 the following new item:

"Sec. 205A. Portability requirements for qualified plans."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to distributions in plan years beginning after December 31, 1992.

SEC. 102. PROTOTYPE PORTABLE PENSION ACCOUNTS.

(a) IN GENERAL.—The Secretary of Labor, in consultation with the Secretary of the Treasury, shall prescribe by regulations one or more prototype portable pension accounts which would, upon adoption by any plan sponsor, constitute a portable pension account meeting the requirements of section 205A of the Employee Retirement Income Security Act of 1974. Regulations for the first of such plans shall be issued within 12 months after the date of the enactment of this Act.

(b) ACCOUNT SPONSOR.—A plan sponsor of a portable pension account means any person who has the power to manage, acquire, or dispose of any asset of a portable pension account and is at least one of the following:

(1) an employer adopting a portable pension account;

(2) an association or organization of employees sponsoring a portable pension account on behalf of its members;

(3) a registered investment advisor under the Investment Advisors Act of 1940;

(4) a bank, as defined in that Act;

(5) an insurance company qualified to perform services with respect to a portable pension account but only if participants are fully covered under a State guaranty fund; or

(6) a savings and loan association regulated by the Office of Thrift Management and empowered by law to perform services with respect to a portable pension account.

TITLE II—MINIMUM BENEFIT PENSION SYSTEM

SEC. 201. MINIMUM BENEFIT PENSION SYSTEM.

(a) IN GENERAL.—Subtitle B of title I of the Employee Retirement Income Security Act of 1974 is amended by adding at the end the following new part:

"PART 7—MINIMUM BENEFIT PENSION SYSTEM

"SEC. 701. COVERAGE.

"(a) IN GENERAL.—Each employer engaged in commerce, or in any industry or activity affecting commerce, shall establish and maintain a minimum benefit pension plan which covers all employees of the employer who have completed 1 year of service with the employer.

"(b) YEAR OF SERVICE.—For purposes of subsection (a), the term 'year of service' has the meaning given such term by section 203(b)(2), except that such paragraph shall be applied by substituting '500' for '1,000' each place it appears.

"SEC. 702. MINIMUM BENEFIT PENSION PLAN.

"(a) IN GENERAL.—For purposes of this part, the term 'minimum benefit pension plan' means a plan which—

"(1) is—

"(A) described in section 401(a) of the Internal Revenue Code of 1986 which includes a trust which is exempt from tax under section 501(a) of such Code,

"(B) described in section 403(a), or

"(C) consists of annuity contracts described in section 403(b), and

"(2) meets the requirements of this section and other applicable provisions of this Act.

"(b) CONTRIBUTION AND BENEFIT REQUIREMENTS.—

"(1) IN GENERAL.—The requirements of this subsection are met if—

"(A) in the case of a defined contribution plan, the employer contributes on behalf of each participant for each plan year an amount not less than the applicable percentage of the participant's compensation paid by the employer for the plan year, and

"(B) in the case of a defined benefit plan, the participant's accrued benefit as of the close of any plan year attributable to years of service for plan years to which this part applies is equal to the greater of—

"(i) the present value of such accrued benefit, or

"(ii) the amount of the participant's accrued benefit which would have been derived if the employer had made contributions on behalf of each participant for such plan years in the amount determined under paragraph (1).

"(2) SPECIAL RULE FOR PART-TIME EMPLOYEES.—In the case of a participant with more than 500 hours of service but less than 1,000 hours of service for any plan year, the contribution and benefit requirements under paragraph (1) shall be equal to the amount which bears the same ratio to such requirements (without regard to this paragraph) as the hours of service of the participant bears to 1,000.

"(3) MAXIMUM AMOUNT.—Nothing in this subsection shall be construed as increasing any limit under this Act or the Internal Revenue Code of 1986 on the maximum amount of any contribution or benefit the plan may provide to a participant for any plan year.

"(c) VESTING.—The requirements of this subsection are met only if each participant has a nonforfeitable right to the accrued benefits required under subsection (b).

"(d) NO INTEGRATION OF MINIMUM BENEFIT.—The requirements of this subsection are met only if the minimum benefit described in subsection (b) is not reduced (or offset) by any other benefits under pension plans maintained by the employer or by benefits under title II of the Social Security Act.

"(e) APPLICABLE PERCENTAGE.—For purposes of this section—

"(1) IN GENERAL.—Except as otherwise provided in this paragraph the term 'applicable percentage' means 3 percent.

"(2) NATIONAL RETIREMENT BOARD.—

"(A) IN GENERAL.—The Secretary of Labor shall appoint a National Retirement Board, consisting of 1 representative of employers, 1 representative of employees, and 1 expert in the field of pension benefits.

"(B) INCREASE IN APPLICABLE PERCENTAGE.—The National Retirement Board may make recommendations to increase the applicable percentage if the Board determines such increase is necessary to provide an adequate retirement income to plan participants. Any recommendation, once made, shall take effect, shall be effective for plan years beginning after the later of the date of the recommendation or the date specified in the recommendation, and shall continue until a subsequent recommendation takes effect.

"(3) PHASE-IN.—In the case of the first 2 plan years to which subsection (b) applies to an employer, the applicable percentage shall be one-third and two-thirds, respectively, of the applicable percentage determined without regard to this paragraph.

"(f) SPECIAL RULES.—For purposes of this section—

"(1) AGGREGATION RULES.—All pension plans maintained by an employer with respect to any employee shall be treated as one plan.

"(2) TRANSITION RULES.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), subsections (b) and (c) shall not apply during the 3-plan year period beginning with the first plan year an employer is required to maintain a minimum benefit pension plan under this chapter.

"(B) EXCEPTION FOR LARGE EMPLOYERS.—If, during the first plan year described in subparagraph (A)—

"(i) an employer normally employed more than 500 employees, subsections (b) and (c) shall apply to all plan years beginning after such first plan year, or

"(ii) an employer normally employed more than 100 but not more than 500 employees, subsections (b) and (c) shall apply to all plan years beginning after the plan year following such first plan year.

"(3) MAINTENANCE OF EFFORT.—Notwithstanding subsection (e)(3) or paragraph (2), the contributions and benefits under any plan for plan years to which such provisions apply shall not be less than the levels for the last plan year before the first plan year an employer is required to maintain a minimum benefit pension plan under this chapter.

"SEC. 703. CIVIL PENALTY.

"(a) IMPOSITION OF PENALTY.—There is hereby imposed on the failure of an employer to maintain a minimum benefit pension plan under part 7 of subtitle B of title I of the Employee Retirement Income Security Act of 1974 with respect to any employee for any plan year a civil penalty equal to $10,000.

"(b) PENALTY NOT TO APPLY IF FAILURE CORRECTED.—No penalty shall be imposed by subsection (a) on any failure if—

"(1) such failure was due to reasonable cause and not to willful neglect, and

"(2) such failure is corrected during the 30-day period beginning on the 1st date the employer knew, or exercising reasonable diligence would have known, of such failure."

(b) CONFORMING AMENDMENT.—The table of contents for subtitle B of title I of such Act is amended by adding at the end the following new items:

"PART 7—MINIMUM BENEFIT PENSION SYSTEM

"Sec. 701. Coverage.
"Sec. 702. Minimum benefit pension plan.
"Sec. 703. Civil penalty."

SEC. 202. EFFECTIVE DATE; REGULATIONS.

(a) EFFECTIVE DATE.—The amendments made by this title shall apply to plan years beginning after the date which occurs 2 years after the date of the enactment of this Act.

(b) REGULATIONS.—The Secretary of Labor and the Secretary of the Treasury shall, not later than 12 months after the date of the enactment of this Act, issue such regulations as are necessary to carry out the amendments made by this title.

SECTION-BY-SECTION DESCRIPTION OF THE PRIVATE PENSION REFORM ACT—RETIREMENT 2000

General Purposes: To expand private pension coverage, given plan participants more control over their pension savings, improve pension benefit portability for mobile workers, protect the purchasing power of earned pension benefits, and increase individual savings for retirement and productive investment in the nation's economy.

Title I establishes portability requirements for qualified plans and gives plan participants the right to transfer their earned benefits to portable accounts when they change jobs. Title II expands pension coverage and establishes minimum benefit accrual standards for private pension plans.

TITLE I—PORTABLE PENSION ACCOUNTS

Title I includes three sections: Section 101 establishes a requirement that qualified plans maintain a portable pension account that can accept transfers from other qualified plans, establishes minimum standards for portable pension accounts, and gives participants the right to transfer earned benefits to another portable account upon separation from service. Section 102 provides for the establishment of prototype portable pension accounts to simplify plan qualification and administration.

Section 101. Requirements for Portable Pension Accounts

101(a) Amendments to ERISA

Section 101(a) stipulates that all qualified plans must maintain portable pension accounts for receipt of direct trustee-to-trustee, transfers. At the election of a terminating employee, earned pension benefits may be transferred directly to another portable pension account. In addition, individuals may establish their own portable accounts for the receipt of such transfers.

Portable accounts must provide for payments to retirees and/or their beneficiaries in life annuity or other standard stream of payments forms. In addition, they must protect spousal rights with respect to the distribution of benefits. Portable accounts must also provide sufficient choice among investment options and control over accumulated assets to meet the exercise of control requirements of Section 404(c) of ERISA.

Section 101 also establishes a standardized discount rate for calculating the value of the earned benefits to be transferred from defined benefit plans. When fully phased in, this discount rate (not more than 3%) will help to protect the purchasing power of such benefits from the adverse effects of inflation. This section applies to distributions after December 31, 1992.

Section 102. Prototype Portable Pension Accounts

Section 102(a) requires that the Secretary of Labor issue regulations for prototype accounts within 12 months of enactment.

Section 102(b) stipulates that account sponsors may include qualified financial institutions and associations or organizations of employees as well as employers and Taft Hartley Trusts.

TITLE II—MINIMUM BENEFIT PENSION SYSTEM

Title II requires that all employers establish and maintain a pension plan that meets certain minimum coverage and contribution or benefit accrual requirements.

Section 201. Minimum Benefit Pension System

Section 201 would amend Subtitle B of title I or ERISA of 1974 by adding the following new part:

Part 7—Minimum Benefit Pension System

Section 701. Coverage

Section 701(a) provides that such plans cover all employees who have at least one year of service with their employer.

Section 701(b) defines the term 'year of service' to mean more than 500 hours' work within any plan year.

Section 702. Minimum Benefit Pension Plan

Section 702(a) establishes standards for minimum benefit pension plans.

Section 702(b) would require employers who offer defined contribution plans to contribute not less than the applicable percentage (3%) of compensation on each employee's behalf. Sponsors of defined benefit plans would be required to contribute an amount needed to yield an equivalent benefit.

Section 702(c) provides that plan participants earn a non-forfeitable (vested) right to their earned benefits after one year of service.

Section 702(d) prohibits the integration of such minimum benefits with any other benefits under pension plans maintained by the employer or with the participant's Social Security benefits.

Section 702(e) defines 'applicable percentage' as 3 percent, and would call for the establishment of a National Retirement Board which may make recommendations to increase the applicable percentage.

Section 702(f) includes special aggregation and transition rules designed to smooth the transition from the existing benefit system. It also includes rules with regard to maintenance of effort on the part of existing pension plans.

Under the aggregation rules, all pension plans maintained by an employer with respect to any employee will be treated as a single plan.

Under the transition rules, the minimum benefit pension system will be phased in as follows over a six-year period beginning two years from the date of enactment:

PHASE-IN OF BENEFIT ACCRUAL/EMPLOYER CONTRIBUTION STANDARDS

Firm size	Year					
	3	4	5	6	7	8
More than 500 employees	⅓[1]	⅔[1]	(1)	.....	.....	.....
101 to 500 employees	.....	⅓[1]	⅔[1]	(1)	.....	.....
100 or fewer employees	.....	.....	.....	⅓[1]	⅔[1]	(1)

[1] Applicable percentage.

Under the maintenance of effort rules, the contributions and benefits under any plan shall not be less than the levels of the last plan year before the first plan year an employer is required to maintain a minimum benefit pension plan.

Section 703. Civil Penalty

Section 703(a) imposes a civil penalty equal to $10,000 on employers that fail to establish and maintain a minimum benefit pension plan.

Section 703(b) states that the penalty shall not apply if the failure was due to reasonable cause and is corrected within 30 days from the date the employer knew, or should have known, of the failure.

Seciton 202. Effective Date and Regulations

Section 203(a) stipulates that Title II shall take effect two years from the date that this legislation is enacted.

Section 203(b) states that the Secretary of Labor and the Secretary of the Treasury must promulgate the administrative regulations needed to implement Title II within 12 months from enactment.

THE INSTITUTE OF ELECTRICAL AND ELECTRONIC ENGINEERS, INC.
Washington, DC, July 28, 1992.

Hon. BROCK ADAMS,
Chairman, Aging Subcommittee, Committee on Labor and Human Resources, U.S. Senate, Washington, DC.

Hon. HOWARD M. METZENBAUM,
Chairman, Labor Subcommittee, Committee on Labor and Human Resources, U.S. Senate, Washington, DC.

DEAR SENATORS ADAMS AND METZENBAUM: The Institute of Electrical and Electronics Engineers—United States Activities (IEEE–USA) has long been concerned about the many serious problems that limit the effectiveness of the nation's voluntary private pension system as a reliable source of retirement income for our increasingly mobile workforce.

These problems include declining pension coverage, particularly for the employees of small businesses; 5 to 10 year vesting requirements that penalize mobile workers; lack of pension portability from traditional defined benefit plans; an absence of incentives for participants to save instead of spend pre-retirement lump sum distributions; and the need for minimum contribution and benefit accrual standards to help ensure that all workers receive an adequate benefit when they retire.

We are especially pleased, therefore, that you are sponsoring legislation that offers pragmatic solutions to these important problems. Introduction of the Private Pension Reform Act—Retirement 2000 will help to focus public attention on the need for a comprehensive reform of the nation's private pension patchwork. Enactment of this legislation will substantially increase the level and security of retirement savings that will be available to all working Americans by the turn of the century.

Title I of the Private Pension Reform Act—Retirement 2000 proposal will immediately improve pension portability for millions of Americans by permitting them to transfer their earned benefits to roll-over IRAS or to other portable plans upon separation from service. This kind of portability is urgently needed, not only to reduce the substantial benefit losses that presently occur when workers change or lose their jobs, but to make it easier for them to move from job to job and even change careers in response to changing economic conditions and employment opportunities.

Title II of the Retirement 2000 proposal provides for an incremental transition to a comprehensive minimum benefit pension system. Such a system will substantially increase coverage to include workers who are currently unable to participate in employer sponsored plans, reduce vesting requirements, prohibit the integration of private pension benefits with Social Security, and establish uniform benefit accrual and contribution standards. When fully phased in at the turn of the century, these standards will help to ensure that all plan participants will receive an adequate pension benefit when they retire.

In summary, the Private Pension Reform Act—Retirement 2000 is designed to make much needed improvements in the nation's private pension system. And at the same time that it contributes to greater retirement income security for millions of American workers, it will also substantially increase the pool of savings needed for productive investment in the nation's economy.

We commend you for introducing this important legislation and look forward to working with you to promote its prompt enactment by the Congress of the United States.

The Institute of Electrical and Electronics Engineers, Inc. (IEEE) is a transnational professional/technical society whose membership includes more than 320,000 electrical and electronics engineers and computer scientists worldwide.

IEEE–USA is responsible for promoting the professional careers and technology policy interests of the 250,000 IEEE members who live and work in the United States.

Sincerely,

ARVID G. LARSON, PH.D.,
Vice President and Chairman, U.S. Activities Board.

OLDER WOMEN'S LEAGUE,
Washington, DC, August 10, 1992.

Hon. BROCK ADAMS,
U.S. Senate,
Washington, DC.

DEAR SENATOR ADAMS: On behalf of the Older Women's League, I want to thank you and Senator Metzenbaum for introducing the Private Pension Reform Act—Retirement 2000. Your bill will require all employers to establish and maintain a pension plan, provides for vesting rights after one year of employment, and improves pension portability. All of these provisions will expand accessibility to pension plans for millions of American women as well as men.

Currently women enter retirement with only 60 percent of the income of retired men. Economists like to speak of the three legged stool of retirement income—Social Security, investments, and pensions. However, for most women the legs on their stool are short or missing.

Yet women need strong pension income even more than men, because they:

Have to pay for one-third more retirement years than men;

Start retirement with a lower financial base; and

Are six times more likely than men to end their lives single.

It is of great importance to women that pensions be portable. Because women tend to change jobs more often than men due to care-giving responsibilities, following transferred husbands, and leaving dead-end jobs, often they are not on a job long enough to vest and become eligible for benefits. Pensions are a part of employee benefits and should go with an employee when the employee changes jobs.

The Private Pension Reform Act will ensure portability and earlier vesting, stipulations that will greatly improve women's chances of pension income in late life.

Sincerely,

JOAN A. KURIANSKY,
Executive Director.

CITIZENS GROUP CALLS FOR A NATIONAL PENSION DIALOG

Millions of American workers are heading for retirement at or near the poverty level because of the deplorable failure of the $2 trillion U.S. private pension system, according to a citizens watching group—and the situation is about to get a lot worse.

The Citizens Commission on Pension Policy is calling on presidential and congressional candidates to address the "urgent need for a simple, effective universal pension system that works for all Americans" at a 10:00 a.m. briefing on Wednesday, July 22, 1992. The briefing will be at the Pension Rights Center, 918 16th Street, N.W., Suite 704, Washington, DC, which is sponsoring the event.

Citizens Commission Vice-Chair, Paul R. Edwards, will present a pictorial analysis of the current "costly shotgun approach of numerous and ineffective layers of pension programs that leave most workers out in the cold." He will point out that "all American workers are footing the bill for a system that the majority cannot access or derive any benefit from. As the nation's principal taxpayers, workers are subsidizing the private pension system to the tune of $52 billion a year—the largest of all corporate tax breaks. Incredible," Edwards says.

Legislation about to be passed by Congress that will make "a disastrous situation a lot worse," will also be discussed at the briefing. This so-called "pension simplification" legislation will allow the well-off to put more money into tax sheltered do-it-yourself savings plans that provide no benefits to rank and file workers who can't afford to take advantage of them. This will accelerate the already very troubling retreat from traditional pension plans and will mean that even more people will face retirement with only social security payments, now averaging $1,500 a year less than the minimum wage. This legislation has passed the House of Representatives as part of the "Revenue Act of 1992" (H.R. 11) and is slated to be approved by the Senate within the week.

Edwards, a grassroots activist and former factory worker from Springfield, Massachusetts, will point to the "Pension Coverage and Portability Improvement Act of 1992" as a starting point for a national dialogue. This legislation, which would assure that virtually all U.S. workers would be covered by portable pension plans, is scheduled to be introduced into the Senate this week by Senators Brock Adams and Howard Metzenbaum.

Campaign and congressional staff members, representatives of retiree, employee and women's organizations and individuals with first-hand experience of the problems of the private pension system will attend.

The Citizens Commission on Pension Policy was formed in 1978 to monitor the President's Commission on Pension Policy and work for realistic long-range, comprehensive reforms in the nation's pension programs.

By Mr. CHAFEE:

S. 3185. A bill to amend title XVIII of the Social Security Act to expand and improve access to Medicare select policies, and to make technical corrections to provisions relating to Medicare supplemental insurance policies; to the Committee on Finance.

ACCESS TO MEDICARE SELECT POLICIES

• Mr. CHAFEE. Mr. President, I am pleased to introduce legislation that would improve access in all States to Medicare supplemental insurance policies that provide benefits to Medicare beneficiaries through health maintenance organizations and preferred provider organizations.

Also known as Medigap insurance, these policies pay a Medicare beneficiary's share of health care costs such as deductibles and coinsurance payments, for Medicare covered services. About 40 percent of elderly Medicare beneficiaries have some form of privately purchased Medigap insurance. But like all health insurance, the costs are rising quickly and not every beneficiary can afford to buy a policy.

Millions of Americans receive health care services through managed care networks. These plans are often more affordable and more comprehensive than traditional health insurance. Employers also use managed care systems to provide an additional option, along with traditional fee-for-service medicine to their employees and retirees.

In 1990, I sponsored legislation which created a new option under Medicare called Medicare Select. Medicare Select is a Medigap insurance policy linked to a managed care network like an HMO. We hoped that because of this linkage, Medicare Select policies would cost less than traditional Medigap policies with the same coverage, and would offer Medicare beneficiaries greater choice and improve quality of care.

Before enactment of this legislation, Medicare beneficiaries who chose managed care had only one choice. They had to enroll in an HMO. Although this option is attractive to many beneficiaries, others did not want to enroll in a managed care plan because they did not want to receive their Medicare benefits through the HMO. Medicare Select gave them greater flexibility by allowing them to choose from a list of providers through a preferred provider organization or PPO.

Although the Senate passed the proposal without any limitations, during conference with the other body, the program was limited to 15 States and will be allowed to continue for only 3 years. In addition other changes in Medigap insurance regulation enacted at the same time created barriers to the success of managed care in the Medicare Program.

For example, most HMO's require a small copayment for each outpatient visit. Under the 1990 Medigap insurance reform law, Medigap policies cannot require Medicare patients to make copayments. This requirement does not fit into the traditional structure used by HMO's in offering benefits to their enrollees, thus creating a disincentive for HMO's to offer coverage to Medicare beneficiaries.

This bill will correct these and other problems, and will create a standardized plan that HMO's and PPO's can use to ensure the success of managed care for Medicare patients. My bill also will eliminate the current arbitrary and unnecessary 15 State, 3-year limitation on the Medicare Select program. Under this bill, Medicare beneficiaries in every State will be able to choose this managed care option which will make the Medigap insurance more affordable. I encourage my colleagues to join with me in improving the managed care options offered to Medicare patients.

Mr. President, I ask unanimous consent that the text of the bill be included in the RECORD.

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

S. 3185

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. REFERENCES TO OBRA–1990; REFERENCES TO SOCIAL SECURITY ACT.

(a) REFERENCES TO OMNIBUS BUDGET RECONCILIATION ACT OF 1990.—In this Act, the term "OBRA–1990" means the Omnibus Budget Reconciliation Act of 1990.

(b) REFERENCES TO SOCIAL SECURITY ACT.—Except as otherwise specifically provided, whenever in this Act an amendment is expressed in terms of an amendment to or repeal of a section or other provision, the ref-

erence shall be considered to be made to that section or other provision of the Social Security Act.

SEC. 2. ACCESS TO MEDICARE SELECT POLICIES.

(a) AMENDMENTS TO PROVISIONS RELATING TO MEDICARE SELECT POLICIES.—

(1) PERMITTING MEDICARE SELECT POLICIES IN ALL STATES.—Section 4358(c) of OBRA–1990 is amended to read as follows:

"(c) EFFECTIVE DATE.—The amendments made by this section shall be effective on January 1, 1992.".

(2) RESTRICTIONS ON CERTAIN MEDICARE SELECT POLICIES.—Section 1882(t)(1) (42 U.S.C. 1395ss(t)(1)) is amended to read as follows:

"(1)(A) If a medicare supplemental policy meets the 1991 NAIC Model Regulation or 1991 Federal Regulation and otherwise complies with the requirements of this section except that—

"(i) the benefits under such policy are restricted to items and services furnished by certain entities (or reduced benefits are provided when items or services are furnished by other entities), or

"(ii) in the case of a policy described in subparagraph (C)(i), the benefits under such policy are not included in one of the groups or packages of benefits described in subsection (p)(2)(A), but such benefits include—

"(I) benefits for inpatient hospital services which have an actuarial value at least equal to the actuarial value of such benefits provided in the core group of basic benefits described in subsection (p)(2)(B), and

"(II) benefits for services covered under part B of this title which have an actuarial value at least equal to the actuarial value of such benefits provided in the core group of basic benefits described in section (p)(2)(B),

the policy shall nevertheless be treated as meeting those standards if the policy meets the requirements of subparagraph (B).

"(B) A policy meets the requirements of this subparagraph if—

"(i) full benefits are provided for items and services furnished through a network of entities which have entered into contracts or agreements with the issuer of the policy,

"(ii) full benefits are provided for items and services furnished by other entities if the services are medically necessary and immediately required because of an unforeseen illness, injury, or condition and it is not reasonable given the circumstances to obtain the services through the network,

"(iii) the network offers sufficient access,

"(iv) the issuer of the policy has arrangements for an ongoing quality assurance program for items and services furnished through the network,

"(v)(I) the issuer of the policy provides to each enrollee at the time of enrollment an explanation of—

"(aa) the restrictions on payment under the policy for services furnished other than by or through the network,

"(bb) out of area coverage under the policy,

"(cc) the policy's coverage of emergency services and urgently needed care, and

"(dd) the availability of a policy through the entity that meets the 1991 Model NAIC Regulation or 1991 Federal Regulation without regard to this subsection and the premium charged for such policy; and

"(II) each enrollee prior to enrollment acknowledges receipt of the explanation provided under subclause (I), and

"(vi) the issuer of the policy makes available to individuals, in addition to the policy described in this subsection, any policy (otherwise offered by the issuer to individuals in the State) that meets the 1991 Model NAIC Regulation or 1991 Federal Regulation and other requirements of this section without regard to this subsection.

"(C)(i) A policy described in this subparagraph—

"(I) is offered by an eligible organization (as defined in section 1876(b)),

"(II) is not described in clauses (ii) and (iii) of subsection (g)(1)(A), and

"(III) provides benefits which, when combined with benefits which are available under this title, are substantially similar to benefits under policies offered to individuals who are not entitled to benefits under this title.

"(ii) In making a determination under subclause (III) of clause (i) as to whether certain benefits are substantially similar, there shall not be taken into account benefits provided under policies offered to individuals who are not entitled to benefits under this title which are in addition to the benefits covered by this title and which are benefits an entity must provide in order to meet the definition of an eligible organization under section 1876(b)(1).".

(b) RENEWABILITY OF MEDICARE SELECT POLICIES.—Section 1882(q) (42 U.S.C. 1395ss(q)) is amended by adding at the end the following new paragraph:

"(6) Paragraph (1) shall not apply to a plan or policy which meets the requirements of subsection (t) with respect to an individual covered by such plan or policy who leaves the service area of such plan or policy.".

"(c) CONFORMING AMENDMENT.—Section 1882(g)(1) (42 U.S.C. 1395ss(g)(1)) is amended—

(1) by striking "(g)(1)" and inserting "(g)(1)(A)";

(2) by striking "but does not include" and all that follows and inserting: "but does not include—

"(i) any such policy or plan of one or more employers or labor organizations, or of the trustees of a fund established by one or more employers or labor organizations (or combination thereof), for employees or former employees (or combination thereof), or for members or former members (or combination thereof) of the labor organizations;

"(ii) any such policy or plan of an eligible organization (as defined in section 1876(b)) if the policy or plan provides benefits pursuant to a contract under section 1876 or an approved demonstration project described in section 603(c) of the Social Security Amendments of 1983, section 2355 of the Deficit Reduction Act of 1984, or section 9412(b) of the Omnibus Budget Reconciliation Act of 1986; and

"(iii) during the 1-year period beginning on the date specified in subsection (p)(1)(C), any such policy or plan of an organization if the policy or plan provides benefits pursuant to an agreement under section 1833(a)(1)(A).";

and

(3) by adding at the end the following new subparagraph:

"(B) For purposes of this section, the term 'policy' includes a certificate issued under such policy.".

SEC. 3. CIVIL PENALTY FOR ANY MISREPRESENTATION OR FALSE INFORMATION IN CONNECTION WITH A MEDICARE SELECT POLICY.

Section 1882(t)(2) (42 U.S.C. 1395ss(t)(2)) is amended—

(2) by striking "(2)" and inserting "(2)(A);

(2) by redesignating subparagraphs (A), (B), (C), and (D) as clauses (i), (ii), (iii), and (iv), respectively;

(3) in clause (iv), as redesignated—

(A) by striking "paragraph (1)(E)(i)" and inserting "paragraph (1)(B)(v)(I)"; and

(B) by striking "paragraph (1)(E)(ii)" and inserting "paragraph (1)(B)(v)(II)";

(4) by striking "the previous sentence" and inserting "this subparagraph"; and

(5) by inserting at the end the following new subparagraph:

"(B) If the Secretary determines that an issuer of a policy approved under paragraph (1) has made a misrepresentation to the Secretary or has provided the Secretary with false information regarding such policy, the issuer is subject to a civil money penalty in an amount not to exceed $100,000 for each such determination. The provisions of section 1128A (other than the first sentence of subsection (a) and other than subsection (b)) shall apply to a civil money penalty under this subparagraph in the same manner as such provisions apply to a penalty or proceeding under section 1128A(a).".

SEC. 4. CORRECTIONS RELATING TO MEDICARE SUPPLEMENTAL INSURANCE POLICIES.

(a) SIMPLIFICATION OF MEDICARE SUPPLEMENTAL POLICIES (SECTION 4351 OF OBRA–1990).—

(1) Section 4351 of OBRA–1990 is amended by striking "(a) IN GENERAL.—".

(2) Section 1882(p) (42 U.S.C. 1395ss(p)), as added by section 4351 of OBRA–1990, is amended—

(A) in paragraph (1)(A)—

(i) by striking "promulgates" and inserting "changes in revised NAIC Model Regulation (described in subsection (m)) to incorporate",

(ii) by striking "(such limitations, language, definitions, format, and standards referred to collectively in this subsection as 'NAIC standards'),", and

(iii) by striking "included a reference to the NAIC standards" and inserting "were a reference to the revised NAIC Model Regulation as changed under this subparagraph (such changed regulation referred to in this section as the '1991 NAIC Model Regulation')";

(B) in paragraph (1)(B)—

(i) by striking "promulgate NAIC standards" and inserting "make the changes in the revised NAIC Model Regulation",

(ii) by striking "limitations, language, definitions, format, and standards described in clauses (i) through (iv) of such subparagraph (in this subsection referred to collectively as 'Federal standards')" and inserting "a regulation", and

(iii) by striking "included a reference to the Federal standards" and inserting "were a reference to the revised NAIC Model Regulation as changed by the Secretary under this subparagraph (such changed regulation referred to in this section as the '1991 Federal Regulation')";

(C) in paragraph (1)(C)(i), by striking "NAIC standards or the Federal standards" and inserting "1991 NAIC Model Regulation or 1991 Federal Regulation";

(D) in paragraphs (1)(C)(ii)(I), (1)(E), (2), and (9)(B), by striking "NAIC or Federal standards" and inserting "1991 NAIC Model Regulation or 1991 Federal Regulation";

(E) in paragraph (2)(C), by striking "(5)(B)" and inserting "(4)(B)";

(F) in paragraph (4)(A)(i), by inserting "or paragraph (6)" after "(B)";

(G) in paragraph (4), by striking "application standards" each place it appears and inserting "applicable 1991 NAIC Model Regulation or 1991 Federal Regulation";

(H) in paragraph (6), by striking "in regard to the limitation of benefits described in paragraph (4)" and inserting "described in clauses (i) through (iii) of paragraph (1)(A)";

(I) in paragraph (7), by striking "policyholder" and inserting "policyholders";

(J) in paragraph (8), by striking "after the effective date of the NAIC or Federal standards with respect to the policy, in violation of the previous requirements of this subsection" and inserting "on and after the effective date specified in paragraph (1)(C) (but subject to paragraph (10)), in violation of the applicable 1991 NAIC Model Regulation or 1991 Federal Regulation or 1991 Federal Regulation insofar as such regulation relates to the requirements of subsection (o) or (q) or clause (i), (ii), or (iii) of paragraph (1)(A)";

(K) in paragraph (9), by adding at the end the following new subparagraph:

(D) Subject to paragraph (10), this paragraph shall apply to sales of policies occurring on or after the effective date specified in paragraph (1)(C)."; and

(L) in paragraph (10), by striking "this subsection" and inserting "paragraph (1)(A)(i)" and by adding at the end the following: "The Secretary shall publish in the Federal Register such list by not later than 90 days after the date the Association promulgates the 1991 NAIC Model Regulation or the Secretary promulgates the 1991 Federal Regulation.".

(b) GUARANTEED RENEWABILITY (SECTION 4352 OF OBRA–1990).—Section 1882(q) (42 U.S.C. 1359ss(q)), as added by section 4352 of OBRA–1990, is amended—

(1) in paragraph (2), by striking "paragraph (2)" and inserting "paragraph (4)", and

(2) in paragraph (4), by striking "the succeeding issuer" and inserting "issuer of the replacement policy".

(c) ENFORCEMENT OF STANDARDS (SECTION 4353 OF OBRA–1990).—

(1) Section 1882(a)(2) (42 U.S.C. 1395ss(a)(2)), as added by section 4353(a)(2)(B) of OBRA–1990, is amended—

(A) in subparagraph (A), by striking "NAIC standards or the Federal standards" and inserting "1991 NAIC Model Regulation or 1991 Federal Regulation", and

(B) by striking "after the effective date of the NAIC or Federal standards with respect to the policy" and inserting "on and after the effective date specified in subsection (p)(1)(C)".

(2) The sentence in section 1882(b)(1) (42 U.S.C. 1395ss(b)(1)) added by section 4353(c)(4) of OBRA–1990 is amended—

(A) by striking "The report" and inserting "Each report",

(B) by inserting "and requirements" after "standards",

(C) by striking "and" after "compliance,", and

(D) by striking the comma after "Commissioners".

(3) Section 4353(d)(2) of OBRA–1990 is amended by striking "July 1, 1991" and inserting "the date specified in section 1882(p)(1)(C) of the Social Security Act".

(4) Section 1882(g)(2)(B) (42 U.S.C. 1395ss(g)(2)(B)) is amended by striking "Panel" and inserting "Secretary".

(d) PREVENTING DUPLICATION (SECTION 4354 OF OBRA–1990).—

(1) Section 1882(d)(3)(A) (42 U.S.C. 1395ss(d)(3)(A)), as amended as section 4354(a)(1) of OBRA–1990, is amended—

(A) by inserting, in the next to last sentence, "with respect to the sale of a medicare supplemental policy" after "violate the previous sentence", and

(B) by striking the last sentence.

(2) Section 1882(d)(3)(B) (42 U.S.C. 1395ss(d)(3)(B)), as amended by section 4354(a)(2) of OBRA–1990, is amended—

(A) in clause (i)(I), by striking "subclause (II)" and inserting "clause (ii)",

(B) in clause (iii)(I), by striking "another medicare" and inserting "a medicare",

(C) in clause (iii)(I), by striking "such a policy" and inserting "a medicare supplemental policy",

(D) in clause (iii)(II), by striking "another policy" and inserting "a medicare supplemental policy", and

(E) by amendeing subclause (III) of clause (III) to read as follows:

"(III) If the statement required by clause (i) is obtained and indicates that the individual is entitled to any medical assistance under title XIX, the sale of the policy is not in violation of clause (i) (insofar as such clause relates to such medical assistance), is a State medicaid plan under such title pays the premiums for the policy, or, in the case of a qualified medicare beneficiary described in section 1905(p)(1), if the State pays less than the individual's full liability for medicare cost-sharing (as defined in section 1905(p)(3))."

(3) Subparagraphs (A) and (B) of section 1882(q)(5) (42 U.S.C. 1395ss(q)(5)), as added by section 4354(b) of OBRA–1990, are each amended by striking "of the Social Security Act".

(4) The second subsection (b) of section 4354 of OBRA–1990 (relating to effective date) is amended—

(A) by redesignating such subsection as subsection (c),

(B) by striking "DATE" and inserting "DATES",

(C) by striking "by this section" and inserting "by subparagraphs (A) through (E) of subsection (a)(1)", and

(D) by inserting before the period at the end the following: "and the amendments made by the other provisions of this section shall take effect on the effective date specified in section 1882(p)(1)(C) of the Social Security Act".

(e) LOSS RATIOS AND REFUNDS OF PREMIUMS (SECTION 4355 OF OBRA–1990).—

(1) Section 1882(r) (42 U.S.C. 1395ss(r)), as added by section 4355(a)(3) of OBRA–1990, is amended—

(A) in paragraph (1), by striking "or solid" and inserting "or renewed",

(B) in paragraph (1)(A), by striking "Commissioners," and inserting "Commissioners)",

(C) in the first sentence of paragraph (2)(A), by striking "(1)(B)" and inserting "(1)",

(D) in paragraph (4), by striking "disallowance", "loss-ratios" each place it appears, and "loss-ratio" and inserting "disallowance", "loss ratios", and "loss ratio", respectively, and

(E) in paragraph (6)(A), by inserting "or renews" after "issues".

(2) Section 1882(b)(1) (42 U.S.C. 1395ss(b)(1)) is amended by transferring and inserting the subparagraph (G) added by section 4355(c)(3) of OBRA–1990 immediately after the subparagraph (F) added by section 4353(c)(3) of that Act.

(3) Section 4355(d) of OBRA–1990 is amended by striking "sold or issued" and all that follows and inserting "issued or renewed on or after the date specified in section 1882(p)(1)(C) of the Social Security Act.".

(f) PRE-EXISTING CONDITION LIMITATIONS (SECTION 4357 OF OBRA–1990).—

(1) Section 1882(s) (42 U.S.C. 1395ss(s)), as added by section 4357(a)(2) of OBRA–1990, is amended—

(A) in paragraph (2)(A), by striking "for which an application is submitted" and inserting "in the case of an individual if an application was submitted", and

(B) in paragraph (2)(B), by striking "before it" and insetting "before the policy".

(2) Section 4357(b) of OBRA–1990 is amended by striking "1 year after the date of the enactment of this Act" and inserting "on the date specified in section 1882(p)(1)(C) of the Social Security Act, except that section 1882(s)(1) of such Act shall take effect on December 13, 1990".

(g) MEDICARE SELECT POLICIES (SECTION 4358 OF OBRA–1990).—

(1) Section 1882(t) (42 U.S.C. 1395ss(t)), as added by section 4358(a) of OBRA–1990, is amended—

(A) in paragraph (1), by inserting "medicare supplemental" after "If a",

(B) in paragraph (1), by striking "NAIC Model Standards" and inserting "1991 NAIC Model Regulation or 1991 Federal regulation",

(C) in paragraph (1)(A), by inserting "or agreements" after "contracts",

(D) in subparagraphs (E)(i) and (F) of paragraph (1), by striking "NAIC standards" and inserting "standards in the 1991 NAIC Model Regulation or 1991 Federal Regulation",

(E) in paragraph (2), by inserting "the issuer" before "is subject to a civil money penalty",

(F) in paragraph (2), by striking "such violation" and inserting "such determination", and

(G) in paragraph (3), by striking "certified" and inserting "approved".

(2) Section 1154(a)(4)(B) (42 U.S.C. 1320c–3(a)(4)(B)), as amended by section 4358(b)(3) of OBRA–1990, is amended—

(A) by inserting "that is" after "(or", and

(B) by striking "1882(t)" and inserting "1882(t)(3)".

(h) HEALTH INSURANCE COUNSELING (SECTION 4360 OF OBRA–1990).—Section 4360 of OBRA–1990 is amended—

(1) in subsection (b)(20(A)(ii), by striking "Act" and inserting "Act)";

(2) in subsection (b)(2)(D), by striking "services" and inserting "counseling";

(3) in subsection (b)(2)(I), by striking "assistance" and inserting "referrals";

(4) in subsection (c)(1), by striking "and that such activities will continue to be maintained at such level";

(5) in subsection (d)(3), by striking "to the rural areas" and inserting "eligible individuals residing in rural areas";

(6) in subsection (e)—

(A) by striking "subsection (c) or (d)" and inserting "this section",

(B) by striking "and annually thereafter, issue an annual report" and inserting "and annually thereafter during the period of the grant, issue a report",

(C) in paragraph (1), by striking "Statewide",

(D) in subsection (f), by striking paragraph (2) and by redesignating paragraphs (3) through (5) as paragraphs (2) through (4), respectively; and

(7) by redesignating the second subsection (f) (relating to authorization of appropriations for grants) as subsection (g).

(i) TELEPHONE INFORMATION SYSTEM (SECTION 4361 OF OBRA–1990).—

(1) Section 1804 (42 U.S.C. 1395b–2) is amended—

(A) by adding at the end of the heading the following: "; MEDICARE AND MEDIGAP INFORMATION",

(B) by inserting "(a)" after "1804.", and

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

"(b) The Secretary shall provide information via a toll-free telephone number on the programs under this title.".

(2) Section 1882(f) (42 U.S.C. 1395ss(f)) is amended by adding at the end the following new paragraph:

"(3) The Secretary shall provide information via a toll-free telephone number on medicare supplemental policies (including the relationship of State programs under title XIX to such policies).".

(3) Section 1889 (42 U.S.C. 1395zz), as inserted by section 4361(a) of OBRA-1990, is repealed.

SEC. 5. EFFECTIVE DATES.

(a) The amendments made by section 2 (other than subsection (a)(1) thereof) and section 3 shall be effective on the date of the enactment of this Act.

(b) The amendments made by sections 2(a)(1) and 4 shall take effect as if included in the enactment of OBRA-1990.●

By Mr. ADAMS (for himself, Mr. BINGAMAN, and Mr. METZENBAUM):

S. 3186. A bill to amend the Public Health Service Act to prohibit physicians from referring patients to health entities in which they have a financial relationship, and for other purposes; to the Committee on Labor and Human Resources.

ETHICS IN REFERRALS AND BILLING ACT

Mr. ADAMS. Mr. President, I rise today to introduce the Ethics in Referral and Billing Act of 1992. This legislation is intended to eliminate two practices that are contributing to the Nation's skyrocketing—and staggering—health care costs: Referrals by physicians to health services in which they have a financial interest; and physicians inflating the prices charged to patients for tests done by outside facilities.

I am very pleased to be joined in introducing this legislation by my distinguished friends and colleagues from the Labor and Human Resources Committee, Senators BINGAMAN and METZENBAUM. I want to express my deep appreciation to them for their hard work in helping me to draft this bill.

We will not be able to reform our health care system and ensure that all Americans have the health care they need until we rein in skyrocketing costs. To do that, we will need to find every dollar spent on unnecessary or inappropriate care and use them to pay for the care that is so badly needed by millions of Americans.

This bill addresses a significant part of that problem. Physician-ownership of health care facilities and services is clearly contributing to driving the cost of medical care sky high. The bottom line is that we cannot reform the health care system and contain costs without tackling this issue.

The American people are losing their faith in our health care system. Traditionally, patients have had a great deal of respect and trust in their physicians. As the practice of medicine has become more and more perceived as the practice of business, the traditional patient-doctor relationship has deteriorated. We must put trust back in our health care system. Patients need to trust that when their doctor orders medical tests those tests are necessary, of the highest quality and the lowest possible cost.

We can help do that by abolishing the practices of self-referral and indirect billing. We have prohibited self-referrals involving clinical laboratories receiving Medicare dollars, now we must do that for all medical facilities and services where there is a potential conflict of interest. And, that is what Senators BINGAMAN, METZENBAUM, and I propose to do with this legislation.

Mr. President, studies conducted by the HHS Office of the Inspector General, the General Accounting Office, and most recently, the Florida Health Care Cost Containment Board, as well as others reported in the New England Journal of Medicine, have confirmed what most of us have suspected. Doctors who own laboratories or other facilities order more tests for their patients and charge more for the tests performed there. Even more egregious is the fact that many of the tests ordered by these doctor-owners/investors may be medically unnecessary.

Let me share just a few of the findings from the Florida study:

Over 40 percent of the doctors practicing in the State have invested in joint ventures to which they can refer patients;

Ninety-three percent of diagnostic imaging centers are either wholly or in-part owned by physicians;

Doctor-owned laboratories, which account for more than 60 percent of all laboratories, performed almost twice as many tests for each patient as other laboratories; and

The average cost per patient in doctor-owned laboratories was more than double that of non-physician owned laboratories.

In a separate report on Florida, the Center for Health Policy Studies in Columbia, MD, found that self-referral in Florida was costing payors at least $500 million.

Many others are speaking out forcefully on this issue. Dr. Arnold Relman, retired editor-in-chief of the prestigious New England Journal of Medicine, describes self-referral as an abuse on such a massive scale that there can be no possible social or medical rationale.

Earlier this year, C. Everett Kopp, the highly esteemed Surgeon General during the Reagan administration, issued a statement during deliberations in the Florida legislature on a state bill dealing with physician self-referrals. I would like to quote from General Koop's statement. He said in part:

> America is calling for health care reform. A return to physician professionalism. An end to greed. And a return to the practice of medicine in the realm of trust between patient and physician. Self-referral accomplishes none of these.

Unfortunately, we cannot expect that the organized medical community will police itself. On June 23 the American Medical Association [AMA] voted to significantly dilute its policy against self-referral. Just last December, the AMA's Council on Ethical and Judicial Affairs, to its credit, issued an opinion stating that it was unethical for physicians to refer patients to facilities in which physicians have a financial interest.

Regretably, the AMA's House of Delegates reversed that position in June, by recommending that the AMA adopt a policy that referrals by physicians to facilities they own or have invested in are ethical if the patient is fully informed of the ownership interest and the existence of any available alternative facilities. While full disclosure should always be made, health care is not like buying a car or other consumer good or service—disclosure's good but it's not good enough.

Mr. President, let me briefly describe what our legislation does. With certain specified exceptions, this bill prohibits physicians from referring patients to health and health-related entities in which they have a financial interest. The prohibition would apply to health care services regardless of who is responsible for the payment of these services.

This bill recognizes that there are times when banning such referrals would be inappropriate or counter-productive. Therefore, we have crafted a number of significant exemptions. For example, there is a broad exemption for rural areas. Physicians may refer to health care entities in which they have an interest in rural areas because that may be the only way to make such services available. Subject to certain criteria, the bill also permits referrals to hospitals, group practices, in-office ancillary service's and prepaid plans.

Current indirect billing practices are also adding millions in unnecessary costs to the health care system. Physicians should not serve as financial middle-men between patients and health care facilities. Many physicians, while sending tests to outside facilities, mark-up the cost of the test and then bill the patient. The physician then pays the lab and pockets the often sizeable difference between what the lab has charged the doctor and the patient has paid.

That practice needs to stop. Our bill will do just that. Payment for these medical services must be accomplished directly. With certain specified exceptions, this bill would make it unlawful for a facility to bill the physician or for the physician to mark-up the procedures ordered.

We recognize that we may not have anticipated all the possible appropriate exemptions. The burden, however, will be on the provider to demonstrate to Congress why his or her form of ownership or investment in a health enterprise is necessary and should be exempted from the law.

Clearly, we do not expect the organized physician community to support this legislation. I do think, however, that many thoughtful physicians on an individual basis will agree with us—C. Everett Koop isn't alone.

Frankly, opposition to this bill is a futile exercise in swimming against the tide. Right now, that tide is gaining strength. In time, it will be irresistible. The cost of health care is out of control. This legislation is reasonable and responsible. Physicians may see this as a form of invasive treatment but, if we don't do this, more radical surgery to constrain costs will be necessary.

A broad prohibition on physician self-referrals is going to occur. It's not a question of if, it's a question of when. Even the President's health care reform pronouncements include an expansion of the current Medicare ban, and the House Republican leadership's health care reform proposal also addresses this issue.

And the States are not idly standing by waiting for Congress to act. They hope for our leadership but are not holding their breath. Florida, New Jersey, Illinois, and New York have already acted on physician self-dealing. My home State has passed legislation on this. Mr. President, the Congress has already said these arrangements are wrong with regard to clinical laboratories under Medicare. Congressman STARK is vigorously leading the effort to expand his earlier efforts throughout Medicare. This issue is only going to gain momentum.

A number of organizations have already expressed their support for this bill. For example, these include the American Association for Clinical Chemistry, the American Clinical Laboratory Association, the American Society for Medical Technology, the American Society of Clinical Pathologists, the National Council of Senior Citizens, the consumer organization, Public Citizen Health Research Group, and the American Association of Bioanalysts.

Mr. President, it's time to get serious about this matter, and this legislation is an opportunity to make a serious statement about it. I urge our colleagues to join Senators METZENBAUM, BINGAMAN and me in cosponsoring this legislation and working to see that it is enacted into law as promptly as possible.

I ask, Mr. President, I ask unanimous consent that the text of the bill that we are introducing along with a summary of the bill's provisions, letters of support from these organizations, the statement of former Surgeon General Koop, and a recent three-part series of articles on physician self-referrals that appeared in the Seattle Times, be printed in the RECORD.

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

S. 3186

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 "Ethics in Referrals and Billing Act of 1992".

SEC. 2. AMENDMENT TO PUBLIC HEALTH SERVICE ACT.

(a) IN GENERAL.—The Public Health Service Act is amended—

(1) by redesignating title XXVII (42 U.S.C. 300cc et seq.) as title XXVIII; and

(2) by inserting after title XXVI the following new title:

"TITLE XXVII—PHYSICIAN REFERRAL AND BILLING

"Subtitle A—Prohibition on Referrals

"SEC. 2701. PROHIBITION.

"(a) IN GENERAL.—Except as provided in section 2702, if a physician (or immediate family member of such physician) has a financial relationship with an entity—

"(1) the physician may not make a referral to the entity for the furnishing of health or health-related items or services; and

"(2) neither the entity nor the physician may present, or cause to be presented, to any person (including an individual, entity or third-party payor) a claim, bill or other demand for payment for health or health-related items or services furnished pursuant to a referral prohibited by this section.

"(b) FINANCIAL RELATIONSHIP.—For purposes of subsection (a), the term 'financial relationship' means—

"(1) except as provided in subsections (a), (b) and (c) of section 2702, an ownership or investment interest (whether through debt, equity or otherwise) in the entity; or

"(2) except as provided in subsections (a) and (d) of section 2702, a compensation arrangement (as defined in section 2709(1)) between the physician (or immediate family member of the physician) and the entity.

"SEC. 2702. EXCEPTIONS TO FINANCIAL RELATIONSHIP PROVISIONS.

"(a) OWNERSHIP AND COMPENSATION ARRANGEMENT PROHIBITIONS.—Section 2701(a) shall not apply in the following cases:

"(1) PHYSICIANS' SERVICES.—In the case of physicians' services (as defined in section 2709(8)) provided or supervised personally by the referring physician or provided or supervised personally by another physician in the same group practice (as defined in paragraph 2709(4)) as the referring physician.

"(2) IN-OFFICE ANCILLARY SERVICES.—In the case of health or health-related items or services—

"(A) that are furnished—

"(i) personally by the referring physician;

"(ii) personally by a physician who is a member of the same group practice as the referring physician; or

"(iii) personally by individuals who are employed by such physician or group practice and who are personally supervised by the physician or by another physician in the group practice; and

"(B) that are billed—

"(i) by the physician performing or supervising the services;

"(ii) by a group practice of which such physician is a member; or

"(iii) by an entity that is wholly owned by such physician or such group practice, if the ownership or investment interest in such services meets such other requirements as the Secretary may by regulation impose as needed to protect against patient and payor abuse.

"(3) PREPAID PLANS.—In the case of services furnished by a public or private entity (which may be a health maintenance organization or a competitive medical plan organized under the laws of any State) that—

"(A) is a health maintenance organization (as defined in section 1301); or

"(B) complies with such other requirements as the Secretary may by regulation impose.

"(4) OTHER RELATIONSHIPS.—In the case of any other financial relationship that the Secretary determines, and specifies in regulations, does not pose a risk of payor or patient abuse.

"(b) OWNERSHIP OR INVESTMENT PROHIBITION FOR OWNERSHIP OF PUBLICLY TRADED SECURITIES.—

"(1) IN GENERAL.—Ownership of investment securities (including shares or bonds, debentures, notes, or other debt instruments) that were purchased on terms equally available to the public and that are in a corporation that—

"(A)(i) is listed for trading on—

"(I) the New York Stock Exchange;

"(II) the American Stock Exchange; or

"(III) another exchange approved by the Secretary; or

"(ii) is a national market system security traded under an automated interdealer quotation system operated by the National Association of Securities Dealers; and

"(B) had, at the end of the corporation's most recent fiscal year, total assets exceeding $100,000,000, and stockholder equity in excess of $50,000,000;

shall not be considered to be an ownership or investment interest described in section 2701(b)(1), except that any ownership or investment in an entity providing any health or health-related item or service in which investments, solicitations, or other inducements to invest are made exclusively or primarily to physicians either prior to or in the course of a public offering would be considered to be a financial relationship for purposes of this section.

"(2) ADDITIONAL REQUIREMENTS.—Paragraph (1) shall only apply in the case of a corporation that has not loaned funds to, or guaranteed a loan for, an investor who is in a position to make or influence referrals to, furnish items or services to, or otherwise generate business for the corporation if the investor used any part of such loan to obtain the investment interest.

"(c) ADDITIONAL EXCEPTIONS RELATED TO OWNERSHIP OR INVESTMENT PROHIBITION.—For purposes of section 2701(b)(1), a physician shall not be considered as having an ownership or investment interest in an entity in the following cases:

"(1) HOSPITAL OWNERSHIP.—In the case of health or health-related items or services provided by a hospital, if—

"(A) the referring physician performs services at the hospital;

"(B) the ownership or investment interest is in the hospital itself (and not merely in a subdivision thereof) subject to the requirements of subsection (b); and

"(C) at least 60 percent of the hospital is owned by physicians performing services at the hospital.

"(2) RURAL PROVIDERS.—In the case of an entity that is furnishing health or health-related items or services, if—

"(A) the entity is located in a rural area (as defined in section 1886(d)(2)(D) of the Social Security Act);

"(B) the referring physician maintains a practice in the same area; and

"(C) the patient receiving the services is a resident of the same area;

except that, an entity described in subparagraph (A) may provide the requested services in cases where the referring physician certifies that an actual emergency exists.

"(3) AMBULATORY SURGERY CENTERS.—In the case of health or health-related items or services that are provided by an ambulatory surgical center, if such items or services are provided in connection with a surgical procedure performed by the referring physician or a member of the referring physician's group practice.

"(d) EXCEPTIONS RELATING TO OTHER COMPENSATION ARRANGEMENTS.—

"(1) IN GENERAL.—For purposes of section 2701(b)(2), the following shall not be considered to be compensation arrangements.

"(A) RENTAL OF OFFICE SPACE.—Payments made by a lessee to a lessor for the use of premises if—

"(i) the lease agreement is in writing and signed by the parties;

"(ii) the lease specifies the premises covered by the lease;

"(iii) in cases where the lease is intended to provide the lessee with access to the premises for periodic intervals of time, rather than on a full-time basis for the term of the lease, and the lease specifies exactly the schedule of such intervals, their precise length, and the exact rent for such intervals; and

"(iv) the aggregate rental charge is set in advance, is consistent with fair market value in arms-length transactions and is not determined in a manner that takes into account the volume or value of any referrals or other business generated between the parties.

"(B) RENTAL OF EQUIPMENT.—Payments made by a lessee of equipment to the lessor of the equipment for the use of the equipment if—

"(i) the lease agreement is in writing and signed by the parties;

"(ii) the lease specifies the equipment covered by the lease;

"(iii) in cases where the lease is intended to provide the lessee with use of the equipment for periodic intervals of time, rather than on a full-time basis for the term of the lease, the lease specifies exactly the schedule of such intervals, their precise length, and the exact rent for such interval; and

"(iv) the aggregate rental charge set in advance and is consistent with fair market value in arms-length transactions.

"(C) PAYMENTS FOR OTHER ITEMS OR SERVICES.—Payments made by an entity to a physician who is not employed by the entity as compensation for—

"(i) specified consultative services if—

"(I) abnormal test results have been obtained that require additional interpretation or consultation; or

"(II) such services are specifically requested by the referring physician on a specified patient, such services are furnished by a physician other than the referring physician (or by another physician who is a member of the same group practice) and where the consulting physician furnishes a written report for that patient;

"(ii) the interpretation of tissue pathology or Pap smear slides or the provision of other cytology services;

"(iii) employment-related health care services, including a payment by a self-insured employer for services rendered to employees or their families under the terms of a health insurance plan; and

"(iv) any services required by local, State or Federal licensure, accreditation or other health and safety provisions:

except that the services described in this clause shall only be exempt for purposes of section 2701(b)(2) if, (aa) the services are provided pursuant to an agreement that is set out in writing; (bb) the agreement specifies the services to be provided by the parties; (cc) in cases where the agreement is intended to provide for the services on a periodic, sporadic or part-time basis, rather than on a full-time basis for the term of the agreement, the agreement specifies exactly the schedule of such intervals, their precise length, and the exact charge for such intervals; (dd) the aggregate compensation paid over the term of the agreement is consistent with fair market value in arms-length transactions; and (ee) the services performed under the agreement do not involve the counseling or promotion of a business arrangement or other activity that violates any State or Federal law.

"(D) EMPLOYMENT AND SERVICE ARRANGEMENTS WITH HOSPITALS.—An arrangement between a hospital or nursing facility and a physician (or immediate family member) for the employment of the physician (or family member) or for the provision of administrative services by the physician, if—

"(i) the arrangement is for identifiable services;

"(ii) the amount of the remuneration under the arrangement—

"(I) is consistent with the fair market value of the services provided; and

"(II) is not determined in a manner that takes into account (directly or indirectly) the volume or value of any referrals by the referring physician;

"(iii) the remuneration is provided pursuant to an agreement which would be commercially reasonable even if no referrals were made to the hospital; and

"(iv) the arrangement meets such other requirements as the Secretary may impose by regulation as needed to protect against program or patient abuse.

"(E) EMPLOYEES.—Payments to an employee, who is an immediate family member of a physician, if the payments—

"(i) are for bona fide employment services;

"(ii) are generally consistent with the compensation paid to other employees for the same or similar services; and

"(iii) do not constitute, directly or indirectly, payments or remuneration for referrals from the immediate family member.

"(F) PHYSICIAN RECRUITMENT.—Payments provided by a hospital to a physician to induce the physician to relocate to the geographic area served by the hospital in order to be a member of the medical staff of the hospital, if—

"(i) the physician is not required to refer patients to the hospital;

"(ii) the amount of the remuneration under the arrangement is not determined in a manner that takes into account (directly or indirectly) the volume or value of any referrals by the referring physician; and

"(iii) the remuneration does not continue for more than 2 years.

"(G) ISOLATED TRANSACTIONS.—An isolated financial transaction (such as a one-time sale of property) if—

"(i) the amount of the payment under the transaction—

"(I) is consistent with the fair market value of the items or property sold; and

"(II) is not determined in a manner that takes into account (directly or indirectly) the volume or value of any referrals by the referring physician; and

"(ii) the remuneration is provided pursuant to an agreement that would be commercially reasonable even if no referrals were involved.

"(H) SALARIED PHYSICIANS IN A GROUP PRACTICE.—Payment by a group practice of the salary of a physician member of the group practice.

"(I) PROVISION OF CERTAIN ITEMS, DEVICES, AND SUPPLIES.—The provision of information, items, devices, or supplies by a laboratory to a physician that are incident to, or necessary for—

"(i) the collection, transportation, or testing of specimens by the laboratory providing such information, items, devices or supplies; or

"(ii) the communication of results by the laboratory providing such information, items, devices, or supplies.

"(2) OTHER REQUIREMENTS.—The Secretary may by regulation impose such other requirements as are needed to protect against patient and payor abuse.

"SEC. 2703. CLARIFICATION REGARDING CERTAIN REFERRALS.

"(a) WHAT CONSTITUTES A REFERRAL.—In the case of—

"(1) a health or health-related item or service, the request by a physician for the health or health related item or service, including the request by a physician for a consultation with another physician, and any test or procedure ordered by, or to be performed by or under the supervision of that other physician shall constitute a referral by a referring physician;

"(2) a request or establishment of a plan of care by a physician which includes the provision of the health or health related items or services, such request or establishment shall constitute a referral by a referring physician; and

"(3) the prescription of the drug by a physician constitutes a referral by a referring physician, but only if the physician directs the patient to the specific pharmacy, home intravenous drug therapy provider or other entity dispensing the drug.

"(b) NONREFERRALS.—The following shall not constitute a referral by a referring physician:

"(1) FURNISHING OF PROFESSIONAL SERVICES.—A request by a physician for physician's services consisting solely of professional services to be furnished personally by that physician or under that physician's personal supervision.

"(2) CLINICAL DIAGNOSTIC TESTS.—A request by a pathologist for clinical diagnostic laboratory tests and pathological examination services, if such services are furnished by (or under the supervision of) such pathologist pursuant to a consultation requested by another physician.

"(3) DIAGNOSTIC X-RAYS.—Except as provided in subsection (a)(1), a request by a radiologist for diagnostic x-ray or imaging services, if such services are furnished by (or under the direct or personal supervision of) such radiologist pursuant to a consultation requested by another physician.

"(4) RADIATION THERAPY.—Except as provided in subsection (a)(1), a request by a physician specializing in the provision of radiation therapy services for such services, if such services are furnished by (or under the direct or personal supervision of) such physician specializing in the provision of radiation therapy services pursuant to a consultation requested by another physician.

"(5) SPECIALIZED CANCER PHARMACY.—A referral by a physician to a specialized cancer treatment pharmacy, if the pharmacy is engaged in the specific practice of preparing and distributing intravenous drugs and solu-

tions used in the diagnosis and treatment of cancer and the complications thereof and is not engaged in distributing general pharmaceuticals to the public.

"(6) RENAL DIALYSIS PROVIDER.—A referral by a physician to a renal dialysis provider in conjunction with a renal dialysis procedure performed under the supervision of the physician.

"SEC. 2704. DISCLOSURE OF INFORMATION.

"Each claim, bill or other demand for health or health related items or services shall identify the referring physician by name and appropriate physician identification number, as determined by the Secretary pursuant to section 2705.

"SEC. 2705. REPORTING REQUIREMENTS.

"(a) OWNERSHIP ARRANGEMENT INFORMATION.—Each entity providing health or health-related items or services shall make available to the Secretary, and to any payor (including a patient or third party payor), if requested by such payor, information concerning the entity's ownership arrangements, including—

"(1) the covered items and services provided by the entity; and

"(2) the names and Unique Physician Identification Numbers, or other appropriate identification number, of all physicians with an ownership or investment interest (as described in subsection 2701(b)(1)) in the entity, or whose immediate relatives have such an ownership or investment.

"(b) FORM AND MANNER.—The information required under subsection (a) shall be made available in such form, manner, and at such times as the Secretary shall require.

"(c) CONSULTATIONS.—The Secretary shall consult with all interested parties to determine how best to make the information required under subsection (a) available and establish appropriate procedures to carry out such determination.

"(d) REPORT BY SECRETARY.—Not later than the end of the first calendar quarter after the first full year during which this title is in effect, and annually thereafter, the Secretary shall prepare and submit to the appropriate committees of Congress a report containing—

"(1) summaries of the information submitted to the Secretary by entities under this title for the period for which the report is being submitted;

"(2) the actions taken by the Secretary and other entities to remain in compliance with this title; and

"(3) recommendations for legislation to improve this title if appropriate.

"SEC. 2706. REGULATIONS.

"The Secretary shall promulgate such regulations as may be necessary to carry out the purposes of this title. If the Secretary determines that additional exceptions to the requirements of section 2701 are in the public interest, and will not result in patient or program abuse, the Secretary may by regulation prescribe additional exceptions.

"SEC. 2707. SANCTIONS.

"(a) PAYMENT.—No person (including an individual, entity or third party payor) shall be required to pay any claim, bill, or other demand for payment for health or health-related items or services furnished pursuant to a referral prohibited under section 2701.

"(b) LIABILITY ON COLLECTION.—If a person collects on any amounts that were billed in violation of section 2701, such person shall be liable to the payor for any amounts so collected.

"(c) INSURANCE PROVISION WITH RESPECT TO NONPAYMENT.—A policy of accident or health insurance issued by any third-party payor, including every subscriber contract issued by a hospital service corporation, health service corporation, medical expense indemnity corporation or mutual insurance company that provides coverage for health or health-related items or services shall include a provision prohibiting the payment of any claim, bill or other demand for payment for the provision of a health or health related item or service furnished pursuant to a referral prohibited under section 2701.

"(d) PATTERNS OF CLAIMS.—A third-party payor that is subject to subsection (c) shall report to the Secretary any pattern that may exist in the submission of claims, bills or other demands for payment that are submitted in violation of section 2701, not later than 60 days after that date on which such third-party payor has knowledge of such pattern.

"(e) NO REQUIREMENT OF AUDIT.—Notwithstanding the requirements of subsections (b), (c) and (d), a third-party payor providing reimbursements for health or health-related items or services shall not be required to audit or investigate any claim, bill or other demand for payment for such items or services that are furnished pursuant to a referral.

"(f) KNOWLEDGE OF VIOLATION.—Any person or entity that presents or causes to be presented, on a repeated basis, a bill or claim that such person or entity knows, or should have known, is for a service for which payment may not be made under subsection (a), and any physician that makes referrals, on a repeated basis, that are prohibited under section 2701, shall be subject to a civil money penalty of not more than $15,000 for each such service or referral. The provisions of section 1128A of the Social Security Act (other than the first sentence of subsection (a) and subsection (b)) shall apply to any civil money penalty assessed under the previous sentence in the same manner as such provisions apply to a penalty or proceeding under section 1128A(a).

"(g) CONCERTED ACTION IN VIOLATION OF SUBTITLE.—

"(1) IN GENERAL.—Any person or entity that enters into an arrangement or scheme (such as a cross-referral arrangement) that the person or entity knows, or should have known, has a principal purpose of assuring referrals by a physician to a particular entity which, if the physician directly made referrals to such entity, would be in violation of this section, shall be subject to a civil money penalty of not more than $100,000 for each such arrangement or scheme. The provisions of section 1128A of the Social Security Act (other than the first sentence of subsection (a) and subsection (b)) shall apply to a civil money penalty assessed under the previous sentence in the same manner as such provisions apply to a penalty or proceeding under section 1128A.

"(2) OTHER CONCERTED ACTIONS.—The Secretary may through regulations define such other arrangements whose purpose is to circumvent the purposes of this subtitle. A violation of such regulations shall be subject to a civil money penalty of not more than $100,000 for each such arrangement or scheme. The provisions of section 1128A of the Social Security Act (other than the first sentence of subsection (a) and subsection (b)) shall apply to a civil money penalty under the previous sentence in the same manner as such provisions apply to a penalty or proceeding under section 1128A(a).

"(h) SUSPENSION OF LABORATORY CERTIFICATION.—If the Secretary finds, after reasonable notice and opportunity for a hearing, that a laboratory which holds a certificate pursuant to section 353 has violated section 2701, the Secretary may suspend, revoke or limit such certification in accordance with the procedures established in section 353(k).

"(i) EXCLUSION FROM OTHER PROGRAMS.—The Secretary may exclude from participation in any program under title XVIII of the Social Security Act, any individual or entity that the Secretary determines has violated section 2701 and may direct that such individual and entity be excluded from participation in any State health care program receiving Federal funds.

"(j) FAILURE TO REPORT INFORMATION.—Any person who knowingly fails to comply with a reporting requirement imposed under this title shall be subject to a civil money penalty of not more than $10,000 for each day for which such required reporting is not complied with. The provisions of section 1128A of the Social Security Act (other than the first sentence of subsection (a) and subsection (b)) shall apply to a civil money penalty assessed under the previous sentence in the same manner as such provisions apply to a penalty or proceeding under section 1128A(a).

"SEC. 2708. RIGHT OF PERSON INJURED.

"Any person who pays any claim, bill or other demand for payment for health or health-related items or services, where the person furnishing the items or services knew or should have known that they were furnished pursuant to a referral prohibited under section 2701, may sue therefore in any district court in the United States in the district in which the defendant resides or is found or has an agent, without respect to the amount in controversy, and shall recover the amount of his payment, the cost of suit, including a reasonable attorney's fee.

"SEC. 2709. DEFINITIONS.

"As used in this subtitle:

"(1) COMPENSATION ARRANGEMENT.—The term 'compensation arrangement' means any payment (whether directly or indirectly, overtly or covertly, in cash or in kind) made by an entity to a physician (or immediate family member).

"(2) EMPLOYEE.—The term 'employee' means an individual who would be considered to be employed by an entity under the usual common law rules applicable in determining the employer-employee relationship (as applied for purposes of section 3121(d)(2) of the Internal Revenue Code of 1986).

"(3) FAIR MARKET VALUE.—The term 'fair market value' means the value of items or services in arms length transactions, consistent with the general market value of such items or services, and, with respect to rentals or leases, the value of rental property for general commercial purposes (not taking into account its intended use) and, in the case of a lease of space or equipment, not adjusted to reflect the additional value the prospective lessee or lessor would attribute to the proximity or convenience to sources of referrals or business.

"(4) GROUP PRACTICE.—The term 'group practice' means a group of two or more physicians legally organized as a partnership, professional corporation, foundation, not-for-profit corporation, faculty practice plan, or similar association—

"(A) in which each physician who is a member of the group provides substantially the full range of services which the physician routinely provides (including medical care, consultation, diagnosis, or treatment) through the joint use of shared office space, facilities, equipment, and personnel;

"(B) for which substantially all of the services of the physicians who are members of

the group are provided through the group and are billed in the name of the group and amounts so received are treated as receipts of the group;

"(C) in which the overhead expenses of and the income from the practice are distributed in accordance with methods previously determined by members of the group; and

"(D) which meets such other standards as the Secretary may impose by regulation.

In the case of a faculty practice plan associated with a hospital with an approved medical residency training program in which physician members may provide a variety of different specialty services and provide professional services both within and outside the group (as well as perform other tasks such as research), subparagraph (D) shall be applied only with respect to the services provided within the faculty practice plan.

"(5) HEALTH AND HEALTH-RELATED ITEMS AND SERVICES.—The term 'health and health-related items and services' shall be construed to have the broadest meaning practicable, and shall include, at a minimum, the medical and other health services specified in section 1861(s) of the Social Security Act.

"(6) IMMEDIATE FAMILY MEMBER.—The term 'immediate family member' shall include spouses, natural and adoptive parents, natural and adoptive children, natural and adopted siblings, stepparents, stepchildren and stepsiblings, fathers-in-law, mothers-in-law, brothers-in-law, sisters-in-law, sons-in-law and daughters-in-law, grandparents and grandchildren, and such additional family members as may be specified in regulations adopted by the Secretary.

"(7) PHYSICIAN.—The term 'physician' means—

"(A) a doctor of medicine or osteopathy legally authorized to practice medicine and perform surgery by the State in which such individual performs such function or action;

"(B) a doctor of dental surgery or of dental medicine who is legally authorized to practice dentistry in the State in which such individual performs such functions;

"(C) a doctor of podiatric medicine;

"(D) a doctor of optometry; or

"(E) a chiropractor.

"(8) PHYSICIAN SERVICES.—The term 'physician services' means professional services performed by physicians, including surgery, consultation, and home, office and institutional calls.

"(9) REMUNERATION.—The term 'remuneration' means the provision of something of value that is not incident to the entity's performance of, or the physician's payment for, the services that are the subject of the referral.

"(10) THIRD PARTY PAYOR.—The term 'third party payor' means any health care insurer, including any hospital services corporation, health services corporation, medical expense indemnity corporation, mutual insurance company, or self-insured corporation, that provides coverage for health or health-related items or service.

"SEC. 2710. NO EXEMPTION FROM ANTITRUST LAWS.

"Nothing in this title shall be construed to create any immunity to any civil or criminal action under any Federal or State antitrust law, or to alter or restrict in any matter the applicability of any Federal or State antitrust law.

"Subtitle B—Restrictions on Billing

"SEC. 2721. PROHIBITION.

"(a) BILLING OF OTHERS FOR ANCILLARY SERVICES.—Except as provided in section 2722, it shall be unlawful for any person (including any individual or entity) who furnishes ancillary health services (as defined in section 2724(e)) to present or cause to be presented, a claim, bill or demand for payment to any person other than the patient receiving such services.

"(b) BILLING OF RECIPIENT OF SERVICES.—It shall be unlawful for any physician, or the agent of any physician, to present, or cause to be presented, a claim, bill or demand for payment for ancillary services to any recipient of such services unless the services covered by the claim, bill or demand were furnished—

"(1) personally by or under the supervision of the referring physician;

"(2) personally by or under the supervision of a physician who is a member of the same group practice as the referring physician; or

"(3) personally by individuals who are employed by such physician or group practice and who are personally supervised by the physician or by another physician in the group practice.

"SEC. 2722. EXCEPTIONS.

"Notwithstanding the provisions of section 2721, a person who furnishes ancillary health services to an individual may present, or cause to be presented, a claim, bill or demand for payment for actual services rendered to—

"(1) an immediate family member of the recipient of the services or any other person legally responsible for the debts or care of the recipient of the services;

"(2) a third-party payor designated by the recipient of the services;

"(3) a health maintenance organization in which the recipient of the services is enrolled;

"(4) a hospital or skilled nursing facility where the recipient of the services was an inpatient or outpatient at the time the services were provided;

"(5) an employer where the recipient of the services is an employee of such employer and the employer is responsible for payment for the services;

"(6) a governmental agency or specified agent, on behalf of the recipient of the services;

"(7) a substance abuse program where the clients of such a program were the recipient of the services;

"(8) a clinic or other health care provider that has been designated (or that is operated by an organization that has been designated) as tax-exempt pursuant to section 501(c)(3) of the Internal Revenue Code of 1986, whose purpose is the promotion of public health, where the services rendered relate to testing for sexually transmitted disease, acquired immune deficiency syndrome, pregnancy, pregnancy termination or other conditions where the Secretary has determined that compliance with section 2721 could seriously compromise the recipient's need for confidentiality;

"(9) a person engaged in bona fide research studies;

"(10) the party requesting the ancillary health services where Federal, State or local law requires that the identity of the recipient be kept confidential;

"(11) another person furnishing the same ancillary health services for which payment is sought (hereafter referred to in this paragraph as the 'requesting party') where the person presenting, or causing to be presented, the claim, bill or demand for payment furnished the services at the request of the requesting party, except that the requesting party may not be a facility owned or operated by the physician requesting the ancillary health service; and

"(12) an entity approved to receive such claims, bills or demands by the Secretary in regulations.

The persons described in paragraphs (1) through (12) may present, or cause to be presented, a claim, bill or demand for payment for such ancillary services to the responsible party.

"SEC. 2723. SANCTIONS.

"(a) PAYMENT.—No payment may be made for a service that is provided in violation of section 2721.

"(b) COLLECTION OF AMOUNTS.—

"(1) LIABILITY ON COLLECTION.—If a person collects any amounts that were billed in violation of section 2721(a), such person shall be liable for, and shall refund on a timely basis to the individual from whom such amounts were collected, any amounts so collected.

"(2) COLLECTION BY PHYSICIAN.—If a physician collects any amounts from a recipient of services, or from another person on behalf of the recipient of services (including a third-party payor), that were billed in violation of section 2721(b), such physician shall be liable for, and shall refund on a timely basis to the recipient or person, any amounts so collected.

"(c) REPEATED CLAIMS.—Any person that presents, or causes to be presented, on a repeated basis a bill or a claim that such person knows, or should have known, is for a service for which payment may not be made under subsection (a), or for which a refund has not been made under subsection (b), shall be subject to a civil money penalty of not more than $5,000 for each such bill or claim. The provisions of section 1128A of the Social Security Act (other than the first sentence of subsection (a) and subsection (b)) shall apply to a civil money penalty assessed under the previous sentence in the same manner as such provisions apply to a penalty or proceeding under such section 1128A(a).

"(d) SUSPENSION OF LABORATORY CERTIFICATION.—If the Secretary finds, after reasonable notice and opportunity for a hearing, that a laboratory which holds a certificate pursuant to section 353 has violated section 2721, the Secretary may suspend, revoke or limit such certification in accordance with the procedures established in section 353(k).

"(e) EXCLUSION FROM OTHER PROGRAMS.—

"(1) AUTHORITY.—The Secretary may exclude from participation in any program under title XVIII of the Social Security Act, any individual or entity that the Secretary determines has violated section 2721 and may direct that such individual and entity be excluded from participation in any State health care program receiving Federal funds.

"(2) APPLICATION OF OTHER LAW.—The provisions of section 1128(e) of the Social Security Act shall apply to any exclusion under paragraph (1) in the same manner as such provisions apply to a proceeding under such section 1128.

"SEC. 2724. REGULATIONS.

"The Secretary shall by regulation impose such other requirements as may be necessary to implement the purposes of this subtitle.

"SEC. 2725. DEFINITIONS.

"As used in this subtitle:

"(1) ANCILLARY HEALTH SERVICES.—The term 'ancillary health services' means—

"(A) diagnostic laboratory tests;

"(B) diagnostic x-ray tests and other diagnostic imaging services including CT and magnetic resonance imaging services;

"(C) other diagnostic tests;

"(D) durable medical equipment; and

"(E) physical therapy services.

"(2) GROUP PRACTICE.—The term 'group practice' means a group of two or more phy-

sicians legally organized as a partnership, professional corporation, foundation, not-for-profit corporation, faculty practice plan, or similar association—

"(A) in which each physician who is a member of the group provides substantially the full range of services that the physician routinely provides (including medical care, consultation, diagnosis, or treatment) through the joint use of shared office space, facilities, equipment, and personnel;

"(B) for which substantially all of the services of the physicians who are members of the group are provided through the group and are billed in the name of the group and amounts so received are treated as receipts of the group;

"(C) in which the overhead expenses of and the income from the practice are distributed in accordance with methods previously determined by members of the group; and

"(D) which meets such other standards as the Secretary may impose by regulation.

In the case of a faculty practice plan associated with a hospital with an approved medical residency training program in which physician members may provide a variety of different specialty services and provide professional services both within and outside the group (as well as perform other tasks such as research), the definition of such term shall be limited with respect to the services provided outside of the faculty practice plan.

"(3) IMMEDIATE FAMILY MEMBER.—The term 'immediate family member' shall include spouses, natural and adoptive parents, natural and adoptive children, natural and adopted siblings, stepparents, stepchildren and stepsiblings, fathers-in-law, mothers-in-law, brothers-in-law, sisters-in-law, sons-in-law and daughters-in-law, grandparents and grandchildren, and such additional family members as may be specified in regulations adopted by the Secretary.

"(4) PHYSICIAN.—The term 'physician' has the same meaning given such term in section 2709(7).

"(5) THIRD PARTY PAYOR.—The term 'third party payor' has the same meaning given such term in section 2709(10).".

(b) CONFORMING AMENDMENTS.—

(1) Sections 2701 through 2714 of the Public Health Service Act (42 U.S.C. 300cc through 300cc-15) are redesignated as sections 2801 through 2814, respectively.

(2)(A) Sections 465(f) and 497 of such Act (42 U.S.C. 286(f) and 289) are amended by striking out "2701" each place that such appears and inserting in lieu thereof "2801".

(B) Section 305(i) of such Act (42 U.S.C. 242c(i)) is amended by striking out "2711" each place that such appears and inserting in lieu thereof "2811".

SEC. 3. EFFECTIVE DATE.

(a) IN GENERAL.—Except as provided in this section, this Act shall become effective January 1, 1994.

(b) EXCEPTIONS.—Notwithstanding subsection (a)—

(1) section 2707(c) of the Public Health Service Act (as added by section 2(a)) shall become effective on January 1, 1994, and shall apply to all policies, contracts and certificates delivered or issued for delivery on or after such date and, as to those policies, contracts and certificates delivered or issued for delivery prior to such date, on the date such policies, contracts or certificates are renewed, modified, altered or amended, except that the Secretary may adopt such regulations and take such steps as may be appropriate prior to such effective date; and

(2) subtitle B of title XXVII of the Public Health Service Act (as added by section 2(a)) shall become effective on January 1, 1994.

(c) REGULATIONS.—Not later than January 1, 1994, the Secretary of Health and Human Services shall promulgate such regulations as may be appropriate to carry out this Act.

ANALYSIS OF THE ETHICS IN REFERRALS AND BILLING ACT OF 1992

The Ethics in Referrals and Billing Act of 1992 will limit the practice of physician "self-referral" and other practices that lead to increased utilization of health care services. Self-referral occurs when physicians refer their patients to a health care entity in which they have an investment interest. Numerous studies have shown that this practice increases the utilization of health care services and inflates health care costs. With certain specified exceptions, this bill would, if enacted, make it unlawful for a physician to refer a patient to an entity for health care services if he or she had an investment or financial relationship with that entity. This prohibition would apply to all health or health-related items or services, regardless of who was responsible for the payment of these services.

In addition, Title II of this Act would, if enacted, require that certain health care services be billed directly by the health care entity that provided those services. The purpose of this title is to prohibit the practice whereby physicians order certain types of diagnostic tests for their patients, which are then billed directly to the physician. The physician marks up those tests, often by a substantial amount, and then bills the patient or third party payor for those tests, even though the physician plays virtually no role in the testing process. Like self-referral, because physicians can profit on each procedure ordered, this practice of physician mark-up leads to increased utilization of health care services. Under this title, with certain exceptions, the laboratory or other entity providing the service would be required to bill the patient or third-party payor directly. It would be unlawful for such an entity to bill the physician or for the physician to mark-up the tests ordered.

SECTION-BY-SECTION SUMMARY

SUBTITLE A—PROHIBITION ON REFERRALS

Section 2701. This section prohibits a physician or his immediate family member from referring patients to an entity with which he has a financial relationship and prohibits the entity from billing for such services. A financial relationship would include either an ownership or an investment interest or a compensation arrangement between the physician and the entity.

Section 2702. This section establishes the exceptions to the prohibition referred to above. There are four different types of exceptions: (a) exceptions to the ownership and compensation arrangement prohibitions; (b) exceptions to the ownership prohibitions applicable to publicly-traded entities; (c) other exceptions to the ownership prohibitions; and (d) exceptions to the compensation arrangement prohibitions. Many of these exceptions are currently included in Section 1877 of the Social Security Act (the Stark self-referral provision applicable to clinical laboratory testing) or are comparable to the requirements of the HHS Office of Inspector General "safe harbor" provisions.

(a) General Exceptions to Ownership and Compensation Arrangement Prohibitions

This section exempts the following types of arrangements from the self-referral prohibition:

1. Physician services which are provided by or supervised by the referring physician or a member of the same group practice.

2. In-office ancillary services furnished by a physician, a member of the same group practice or by employees who are personally supervised by such physicians where the services are billed by the physician or the group practice.

3. Prepaid Plans, such as Health Maintenance Organizations or Competitive Medical Plans.

4. Other relationships determined by the Secretary not to pose a risk of payor or patient abuse.

(b) General Exceptions Related to Ownership or Investment Prohibition for Publicly-Traded Securities

This section exempts ownership or investment in publicly traded securities if the securities are purchased on terms equally available to the public; if they are listed for trading on a major stock exchange, such as the New York or American Stock Exchange; and if the corporation had total assets exceeding $100,000,000 and had stockholder equity in excess of $50,000,000, unless solicitations or other inducements to invest are made exclusively or primarily to physicians. In addition, a corporation may not loan funds to an investor who uses them to purchase an investment interest in the entity. However, if solicitations were made exclusively or primarily to physicians the offering would not qualify for the exemption.

(c) Additional Exceptions Relating to Ownership or Investment Prohibition

This section sets out the following additional exceptions to the ownership or investment prohibition.

1. A physician may refer to a hospital in which he has an interest so long as that interest is in the hospital itself and not merely in a subdivision of the hospital, so long as the referring physician performs services at the hospital, and so long as the physician owns at least 60 percent of the entity that owns the hospital.

2. Entities that are located in rural areas are exempt from the prohibitions if the referring physician actually maintains a practice in that area and if the patient receiving the services is actually a resident of that area.

3. Ambulatory surgery centers are exempt if the referring physician or a member of his or her group practice provides the surgical service.

(d) Exceptions Relating to Other Compensation Arrangements

This section establishes certain additional exemptions for some compensation arrangements. Under this section the following are not considered compensation arrangements under the Act:

(A) The rental of office space is not considered a compensation arrangement if there is a lease setting out the provisions in writing that is signed by the parties; the premises are specified in the lease; the period covered by the lease is established in the lease; and the rental charge is set in advance and is consistent with the fair market value of the property.

(B) The rental of office equipment is not considered a compensation arrangement if particular requirements are met. These requirements are comparable to those established for a rental of office space.

(C) Certain payments for other services or items are also exempt. Payments to a physician by an entity would be exempt from the compensation arrangement prohibition in the following instances:

Consultative services, where tests results were obtained that were outside established

parameters or where a particular physician had requested certain consultative services by a physician so long as those services were not furnished by the referring physician or a member of his group practice, and so long as a written report was furnished with regard to that patient. This provision would allow entities to have contracts with physicians who read certain types of diagnostic tests, such as x-rays, CAT scans or EKGs, as such a service is usually requested by the referring physician.

Interpretation of tissue pathology, Pap smear slides or other cytology services by a pathologist.

When an entity paid a physician for services that were rendered to that entity's own employees.

Services that were required by local, state or federal licensure or accreditation laws.

These services would be exempt under this subsection only if there was an agreement in writing for the provision of the services; the agreement specified what services were to be provided; the compensation was set in advance and consistent with fair market value; and the services did not violate other federal law.

(D) Employment and service arrangements between hospitals or nursing facilities and physicians are exempt from compensation arrangements so long as the arrangement is for identifiable services and the remuneration is consistent with fair market value and does not take into account the volume or value of referrals;

(E) Payment to employees who are related to a physician would not constitute a compensation arrangement so long as the conditions set out in the section are met.

(F) Hospitals would be permitted to make payments to physicians to induce them to relocate into the geographic areas served by the hospital, so long as the physician was not required to refer patients to the hospital; the amount of the remuneration did not take into account the volume or value of referrals; and so long as the remuneration did not continue for more than two years.

(G) An isolated financial transaction, such as a one-time sale of property, is permitted so long as payments are consistent with the fair market value of the property sold, and the price does not take into account the volume or value of referrals.

(H) Payments to a salaried physician in group practice would also not constitute an illegal compensation arrangement.

(I) The provision of certain items, devices, and supplies by a laboratory to a physician that are incident to, or necessary for, the collection, transportation or testing of specimens, or the communication of results by the laboratory providing such information, items, devices, or supplies would not constitute an illegal compensation agreement.

In addition under this section the Secretary would have the right to impose other regulations as necessary.

Section 2703. This section clarifies that the request for the following types of services are considered referrals under this section.

(a) Among those requests for health related services that are covered by this title are the following

(1) a request for any health or health-related item or service, including a request for consultation which results in further tests or procedures;

(2) the establishment of a plan of care by a physician which includes the provisions of certain health or health related items or services;

(3) the provision of an outpatient drug, if the practitioner directs a patient to a specific pharmacy, home IV drug therapy provider or other entity dispensing the drug;

(b) In addition, under this section, the following are not considered referrals

(1) a request by a physician for physician services furnished by that physician or under his supervision;

(2) a request by a pathologist for a clinical diagnostic tests, which he performs or are performed under his supervision;

(3) a request by a radiologist for x-rays or other imaging services;

(4) a request by a physician specializing in radiation therapy for such services, if they are furnished by him of under his supervision;

(5) a request by a physician to a specialized cancer treatment pharmacy which is not in the business of distributing such pharmaceuticals to the general public;

(6) a referral by a physician to a rental dialysis provider where the services are provided under the supervision of the physician.

Section 2704. This section requires that each claim for health or health related items or services identify a referring physician by name and appropriate physician I.D. number.

Section 2705. This section requires entities to give the Secretary and other payers, as requested, information relating to their ownership. This section also provides for the Secretary to consult with third-party payers to determine how best to make such information available.

This section also requires the Secretary to report annually to the Congress, to provide the appropriate Committees of the Congress with: (1) summaries of the information submitted to the Secretary by entities pursuant to this act, (2) compliance with this act, and (3) recommendations for amendments to this act, as appropriate.

Section 2706. This gives the Secretary the power to adopt other regulations as he deems necessary including additional exceptions if necessary.

Section 2707. This section establishes the sanctions for a violation of this section.

(a) No one is required to pay any claim for services that are furnished pursuant to a prohibited referral;

(b) The person collecting any such amounts is liable to the payor for the amounts so collected;

(c) Every insurance policy must indicate that payments for prohibited referrals are excluded;

(d) Every third-party payor is required to report on a pattern of claims in violation of the Act;

(e) This section clarifies that no insurer is required to audit or investigate claims to determine whether or not they are furnished pursuant to a prohibited referral;

(f) Those entities that present claims for prohibited referrals on a repeated basis, and those physicians that make referrals on a repeated basis that are prohibited by this Act, will be subject to civil money penalties of $15,000 per service;

(g) Any entity that enters into a cross-referral arrangement will be subject to a civil money penalty of not more than $100,000 for each such arrangement or scheme. The Secretary may also define other types of arrangements whose purpose is to circumvent the purposes of the title. Violation of such regulations shall be subject to a civil money penalty of $100,000;

(h) If a laboratory violates the terms of Section 2701, then its CLIA certificate may be suspended, revoked or limited;

(k) If the Secretary determines a violation of Section 2701 has occurred, he may exclude the entity from the Medicare program and from any state program receiving federal funds;

(l) Any one knowingly failing to meet a reporting requirement is subject to a civil money penalty of no more than $10,000.

Section 2708. This section permits any person, including any patient or third party payor, who pays for services that the person furnishing the services knew or should have known were furnished pursuant to a prohibited referral, to sue the person to whom the payment is made for the payment and the cost of the suit including reasonable attorneys' fees.

Section 2709. This section establishes the appropriate definitions applicable to this Bill.

Section 2710. This section states that nothing in this law creates any immunity to any civil or criminal action under any antitrust law, or affects the applicability of the antitrust laws.

SUBTITLE B—RESTRICTIONS ON BILLING

Section 2721. This section prohibits any person from presenting a bill from certain specified types of health care services to any person other than the patient receiving those services. The services covered by this provision are diagnostic laboratory testing, diagnostic imaging services, other diagnostic testing, durable medical equipment and physical therapy services. In addition, it makes it unlawful for any physician to bill for services unless he personally provided them or they were provided under his supervision or by a member of the same group practice.

Section 2722. This section establishes the following exceptions to the billing prohibition noted above. Under this section, a person providing the services could bill the following, rather than the recipient of the services. In addition, where appropriate, this person receiving the bill could bill the responsible party. The persons who qualify under this section are:

(1) An immediate family member of the recipient or other person legally responsible for the debts or care of the recipient.

(2) A third party payor designated by the recipient of the services;

(3) An HMO in which the recipient of the services is enrolled;

(4) A hospital or nursing facility when the recipient of the services is an inpatient or outpatient of the hospital or facility at the time the services were provided;

(5) An employer, when the services are provided to an employee, and when the employer is responsible for the payment for these services for an employee.

(6) Government agencies, or their agents, acting on behalf of the recipient of the services.

(7) Substance abuse program whose clients are the recipient of the services.

(8) A nonprofit clinic or other health care provider that provides testing for sexually transmitted diseases, AIDS, pregnancy or pregnancy termination or other conditions where the Secretary has determined that it might compromise the recipient's need for confidentiality if the services billed directly.

In these situations, it is often necessary for the patient to pay the doctor directly so that he or she does not receive a bill at his or her home;

(9) A person engaged in bona fide research studies;

(10) Where the law requires that the identity of the recipient be kept confidential;

(11) Another individual or entity furnishing the same types of services so long as the

individual or entity is not operated by the physician ordering the services. This section is necessary because some entities, such as independent laboratories, often find it necessary to refer testing to other independent laboratories. In such instances, the laboratory performing the services may bill the requesting entity. This provision would not permit a physician's office laboratory, however, to refer to another laboratory, which the physician then billed for;

(12) Another entity approved by the Secretary.

Section 2723. This section states that no person may bill in violation of this section and is liable to refund any amounts collected. In addition, under section (b)(2) a physician must refund any amounts that he collects in violation of this section. Persons who repeatedly violate the section can be subject to civil money penalties and a laboratory can have its CLIA certificate revoked under this section. An entity violating the provision can also be excluded from the Medicare program and other programs receiving federal funds.

Section 2724. This section permits the Secretary to impose regulations implementing this title.

Section 2725. This section establishes the definitions under the statute.

The final section of the bill establishes an effective date of January 1,, 1994 and requires that regulations be adopted by January 1, 1994.

STATEMENT OF PUBLIC CITIZEN HEALTH RESEARCH GROUP IN SUPPORT OF THE ETHICS IN REFERRALS AND BILLING ACT OF 1992

In recent months there has been a flurry of attention to the issue known as "self referral"—doctors referring patients to labs and services in which they have a financial interest. Public Citizen Health Research Group views all such referrals as an inherent conflict of interest and has called for their prohibition at both state and national levels.

The bill introduced today by Senators Adams, Bingaman and Metzenbaum is the first to address this problem in the United States Senate, along with a related issue concerning unethical billing procedures. On self-referral, the bill goes beyond current law and other proposals in several important ways. First, it prohibits self-referrals for all health care items and services, rather than limiting the ban to specified categories. The latter approach (taken by current law and legislation pending in the House) inevitably allows some abusive referrals to continue and encourages physician-owners to shift their investments from a prohibited service to others not targeted by the law. Second, it applies to both government and private payors, not just to services covered by Medicare. This expansion of current law acknowledges that a self-referral ban limited to only one source of payment is an incomplete solution. Third, it adds enforcement clout by including a private right of action whereby persons who have paid for services provided pursuant to a prohibited referral may sue to recover their losses. Finally, it adds accountability by mandating annual reports to Congress summarizing data received by the Secretary of Health and Human Services on self-referral practices and the extent of compliance with the law.

The referral and billing issues addressed by this bill are critical to any health care cost containment effort—in turn an integral part of any larger plan for health care system reform. Indeed, both issues point to the urgent need for a single-payor system in which billing is streamlined and lines of accountability are clear. However, whether part of a larger plan or standing on its own, the Ethics in Referrals and Billing Act takes a major step toward curbing unethical physician self-referrals and billing practices. We applaud Senators Adams, Bingaman and Metzenbaum for their leadership on these issues, and urge the Senate's prompt consideration of this bill.

SIDNEY M. WOLFE, MD,
Director,
JOAN STIEBER,
Staff Attorney.

AUGUST 3, 1992.

Senator BROCK ADAMS,
U.S. Senate, Hart Senate Office Building, Washington, DC.
Senator HOWARD METZENBAUM,
U.S. Senate, Russell Senate Office Building, Washington, DC.
Senator JEFF BINGAMAN,
U.S. Senate, Hart Senate Office Building, Washington, DC.

DEAR SENATORS: The undersigned organizations, which represent a broad spectrum of laboratory providers, are writing to express their support for the Ethics in Referrals and Billing Act of 1992. The undersigned organizations are especially pleased that the bill would impose a direct billing requirement for certain ancillary services, including laboratory services.

Like all those involved in the health care field, the undersigned are extremely concerned about the rapidly rising costs of health care. We believe an important way to curb the escalation in health care costs is by removing the incentives that providers have to order unnecessary health care services. This bill would serve that goal.

In many areas, practitioners are permitted to mark-up laboratory tests that they do not perform, which can provide an incentive for them to increase their utilization of laboratory testing. The federal government, long ago, protected itself from this practice by requiring direct billing for all Medicare outpatient laboratory services. This bill would extend that same protection to other health care payors.

We applaud your action. We took forward to working with you on this bill.

Sincerely yours,

AMERICAN ASSOCIATION FOR CLINICAL CHEMISTRY.
AMERICAN CLINICAL LABORATORY ASSOCIATION.
AMERICAN SOCIETY OF CYTOTECHNOLOGY.
AMERICAN SOCIETY OF CLINICAL PATHOLOGISTS.
AMERICAN SOCIETY OF CYTOLOGY.
NICOLS INSTITUTE.

AMERICAN SOCIETY FOR MEDICAL TECHNOLOGY,
Washington, DC, July 23, 1992.

Hon. BROCK ADAMS,
U.S. Senate, Hart Senate Office Building, Washington, DC.

DEAR SENATOR ADAMS: The American Society for Medical Technology (ASMT) representing more than 20,000 non-physician clinical laboratory personnel, is writing in support of the Ethics in Referrals and Billing Act of 1992. This important piece for legislation would eliminate providers economic incentives to overutilize health care services which has added to spiraling health care costs.

ASMT is particularly pleased that this bill includes a direct billing component. Under the current billing system, physicians demand and obtain large volume discounts from laboratories performing non-Medicare tests. Physicians then mark-up these discounted prices by a significant amount when they bill patients and third party payors. The direct billing provision, which is currently required under Medicare, would remove physicians as the middle-man, and thus ensure that laboratories bill patients and third party payors actual costs for laboratory tests. Removing this financial incentive from physicians will reduce over-utilization and lower overall healthcare costs.

We also strongly support the prohibition on physician self-referral contained in this legislation. The AMA's recent reversal on its position on self-referral to physician-owned facilities clearly demonstrates the need for comprehensive federal legislation. Several states have already enacted bans on self-referrals and several more are in the process. It is high time that the federal government recognize that referrals to ancillary health care facilities in which physicians have an ownership interest constitute a prima facie conflict of interest and should not be tolerated.

We commend your efforts, and that of your staff, and look forward to working with you on obtaining additional support for this important piece of legislation.

Sincerely yours,

JOELINE DILLARD DAVIDSON,
MBA, CLS (NCA).

HEALTH IMAGES, INC.
Atlanta, GA, August 3, 1992.

Senator BROCK ADAMS,
U.S. Senate, Hart Senate Office Building, Washington, DC.
Senator HOWARD METZENBAUM,
U.S. Senate, Russell Senate Office Building, Washington, DC.
Senator JEFF BINGAMAN,
U.S. Senate, Hart Senate Office Building, Washington, DC.

DEAR SENATORS: Thank you for sharing a draft of the Ethics in Referrals and Billing Act of 1992. On behalf of Health Images, Inc., I am pleased to express our support for this very important piece of legislation, which would, in most instances, prohibit the practice of self-referral, by which physicians refer their patients to entities with which they have a financial relationship.

Health Images specializes in the establishment and operation of free standing magnetic resonance imaging centers. The Company currently operates 34 centers in 11 states and 2 in the United Kingdom. Health Images previously had physician investors in its centers; however, it found that such investment interfered with the Company's ability to provide quality MRI services. As a result, since 1988, virtually all Health Images centers have been wholly-owned by the Company.

There can be little question that self-referral is a threat to the entire health care system. Recent studies performed by the Department of Health and Human Services Office of Inspector General, the Florida Health Care Cost Containment Board, and a California consulting firm studying workman's compensation have all confirmed that self-referral increases utilization of health care services and escalates health care costs. Health Images' own experience confirms these conclusions.

We believe that this bill is an important step in eliminating this costly and wasteful

practice. We look forward to working with you on this bill.

Sincerely yours,

ROBERT D. CARL III,
President.

STATEMENT OF C. EVERETT KOOP, M.D.

I am C. Everett Koop. Why am I concerned about legislation in Florida? Why do I want to assure the passage of House Bill 955 and Senate Bill 2264? Because I am desperately concerned about the future of medicine in this country and the future of the medical profession.

I know some of my friends in the Florida Medical Association will be displeased at what I have to say, while I hope that other of my friends among the doctors of Florida will follow their instincts about what they know is right and be willing to stand up and be counted. Self-referral and joint ventures raise two issues. One is moral-ethical and the other has to do with cost and utilization. Doctors referring their patients to facilities in which they have an economic interest is incompatible with all that professionalism in medicine stands for. It is reminiscent of kickbacks and split fees which were the hallmarks of unethical medicine when I began to practice 50 years ago. We got rid of those things. Some doctors squawked, but we got rid of them. And medicine became better, safer and cheaper. The AMA, long unjustly criticized by the unknowing as being more interested in doctors than in patients, agrees with me, and has taken a firm stand against joint ventures. In the very words of the AMA, "Physicians are engaged in the special calling of healing, and, in that calling, they are the fiduciaries of their patients. They have different and higher duties than even the most ethical businessperson."

The cost of self-referral to the state of Florida has been estimated to be about a half billion dollars per year. The system of self-referral encourages monopolies and over-utilization. The system does not cater to the poor. This has been affirmed by the Health Care Cost Containment Board study. And arguments for free enterprise hold no water if the cost is so high in ethics and dollars.

I suspect I have my finger on the pulse of America as much as anyone to whom I am speaking. I spend my life at this task. America is calling for health care reform. A return to physician professionalism. An end to greed. And a return to the practice of medicine in the realm of trust between patient and physician. Self-referral accomplishes none of these.

To legislators, I say, the country is watching, and you will influence American medicine for good or for ill. To physicians, I say, if we do not reform health care now, and self-referral and joint ventures are a part of that, you will either get nationalized medicine—exorbitantly expensive and insensitive to patient needs—or you will have private medicine run amok. And there are those who will say that you are partly responsible.

[From the Seattle (WA) Times, July 26, 1992]

PHYSICIANS' LUCRATIVE REFERRAL PRACTICES ARE UNDER SCRUTINY

(By Duff Wilson)

Everyone knows astronomical health-care costs are a major concern in the United States. Everyone knows the reasons are complex and myriad. But one reason, experts say, is simple: Greed.

Many doctors in recent years have become entrepreneurs, investing in centers offering high-tech diagnostic equipment, therapy and other services—and referring their patients for questionable tests at these centers, draining tens of millions of health-care dollars into their own pockets.

In England, such investments are considered absolutely unethical conflicts of interest. In the United States, they weren't much of an issue until the boom in technology in the 1970s and '80s.

To pay for the equipment, doctors raised fees. In response, medical insurers set stricter limits on how much they would pay; doctors felt the squeeze, and started looking for new ways to make money.

And what better way than a high-tech investment where you control some of the patients and their payments? What became increasingly clear was the potential for huge profits in these arrangements. Dr. Terry Rogers, medical director of Blue Shield of King County, calls it "squeezing the golden egg."

The American Medical Association says about 1 in 10 doctors nationwide has a financial interest in specialty clinics, "imaging" centers, laboratories, physical therapy, nursing homes, ambulance companies or other health-care business. A federal government survey set the number at 15 percent, and Florida regulators said it was more like 40 percent in their state.

In Washington, doctors and regulators say the numbers here are about the same as the national average, so perhaps 900 of the 9,000 practicing doctors in this state own businesses to which they can refer patients. Many local doctors don't believe these "self-referrals" are as great a problem here as they are elsewhere. But no one really knows, and no one here is looking.

That is troubling because as the number of such arrangements has increased, so have the questions about what they're doing to the cost and quality of medical care. Federal regulators, lawmakers, even doctors are raising many of the questions, and have already found some disturbing answers.

"There's no other aspect of our lives where we're dealing with so little accountability for either the consumer or the provider," said Dr. Art Sprenkle, an allergist and state legislator from Snohomish.

Sprenkle says the system has created "a perverse incentive to do more than is necessary."

It's not just his opinion:

In a recent study by the Center for Health Policy Studies in Columbia, Md., doctor-owned magnetic resonance imaging (MRI) clinics in Florida charged 92 percent more than the national average and ordered twice as many tests.

MRIs, which take state-of-the-art pictures of the brain, spine and other body parts, are a focal point for abuse because the equipment costs more than $2 million and tests can cost $1,000 or more.

Dozens of Washington doctors own shares of MRIs in Seattle, Tacoma, Bremerton and other places.

In Michigan, 41 percent more laboratory tests were ordered for Medicaid patients referred to doctor-owned labs, according to a 1981 study. A 1983 study by Michigan Blue Cross and Blue Shield found doctor-owned laboratories billing the average patient twice as much as other labs.

Taxpayers spend $28 million on additional and possibly unnecessary testing at laboratories that were owned by referring doctors in 1987, according to the inspector general of the federal Department of Health and Human Services.

Certainly not all doctors are setting up these businesses just for the money. The services are often needed, and many of the doctors argue that investment money to provide them is difficult to come by, especially in rural areas. Doctor-owners also say they can provide better quality control.

But while doctors may believe they're practicing defensive medicine and helping patients, some admit financial incentives can't help but skew their decisions some of the time.

"Whether you make a profit or not has a definite effect," says Dr. Robert Crittenden, a South Seattle physician and Gov. Booth Gardner's health-care adviser.

"It kind of gets to the very nature of how medicine is run in this country—as a capitalist venture," says a Snohomish County doctor who recently sold his investment in a heart-monitoring machine because of ethical concerns about how it might affect his decision-making.

Most experts think the influence of money causes doctors to overtreat the rich and undertreat the poor. But the effect can also be felt in quality of care.

After her eye turned pink, one elderly heart-surgery patient in Western Washington needed a blood test to determine if her dose of blood-thinning medicine was too high.

Her surgeon ordered the test, and sent the sample to a lab 30 miles away—a lab that was renting space at a premium in a building the doctor partly owned.

That meant the woman had to wait a day and a half to find out she needed a small dosage adjustment.

But if the doctor had sent the sample to another lab nine blocks away, the woman's worry would have been reduced to two hours.

"Now, for me, it wasn't bad, but it could be very dangerous in some cases," said the patient. Many people would be unaware of the hidden influences, too; this patient's husband happened to be a retired doctor.

Today, federal investigators have a blunt new name for many of the financial arrangements that a few years ago were accepted with a wink.

Now they're called kickbacks, and they make up nearly one in five health-fraud cases investigated by the Health and Human Services inspector general, said Elliott Kramer, chief of West Coast investigations.

Congress cut off Medicare payments to some doctor-owned laboratories in January, and President Bush recently asked for even broader action.

Even the American Medical Association, long a bastion of defense for doctors delving for dollars, passed a resolution last December, declaring self-referral unethical.

However, another resolution passed by the AMA's 434-member governing body last month softened its ethics stance, saying self-referrals to doctor-owned laboratories are OK as long as the doctors inform their patients.

The federal government is not softening. Several agencies are scrutinizing doctor ownership of laboratories.

The Federal Trade Commission says the practice raises prices and reduces the quality of health care.

Washington is taking no action. What laws there are in this state aren't enforced, and state medical-association leaders say ownership isn't really a problem.

"Self-referral" is a broad term, and it's not always bad. It can be as common and benign as the family doctor who asks you back for second visit, or the surgeon who recommends surgery.

It can start to raise questions when—as studies show—doctors who have X-ray ma-

chines in their offices start ordering more tests than those who don't.

But that isn't what needs fixing, said Dr. Arnold Relman, editor emeritus of the New England Journal of Medicine and a leading critic of conflicts of interest in medicine.

Relman drew the line where doctors refer patients to a business they own but don't work in. In that situation, they have no direct professional responsibility for the work—but a huge opportunity for making money.

"Doctors get paid only 20 cents on the health-care dollar, but their decisions and their referrals guide the majority of the rest," Relman said in a talk to a physician group in Seattle earlier this year.

He warned that abuses are leading to a loss of trust in doctors.

"It's time for us to face the fact that our professionalism is on the line," he said.

"We're fouling our own nests, and we've got to stop."

DOCTORS' ETHICS: KICKBACKS BANNED, BUT THE ISSUES ARE MUDDY

(By Duff Wilson)

Dr. Frank Thomas, an Anacortes pathologist, says you don't want to know how sausage is made, and you don't want to know how doctors make their money. It's a long story, and some of the doctors don't come out too well.

American Medical Association ethics prohibit doctors from taking direct kickbacks for funneling patients to labs and other health-care businesses, but the rules fail to define the many indirect ways to pay for such referrals.

These take various forms—profit-sharing and joint ventures, rebates, expenses-paid trips, payola such as expensive Christmas gifts, or rent adjustments when the independent business operates in a hospital or large clinic.

Whatever the form, the dollars have come in large part from ordinary people—through federal taxes and private insurance payments. Federal law until recently did not deal with most of these arrangements. The law provided criminal penalties, but it was too hard to show criminal intent. A change in 1987 allowed civil penalties as well, and a 1989 federal fraud alert put medical businesses on notice about what was and was not legal.

The most common deals involve laboratories, "imaging" centers that take X-rays and other pictures, and physical-therapy outlets. Among some of the newer ventures that have appeared:

Drug-infusion therapy. An Atlanta company is turning to oncologists and infectious-disease specialists to finance drug-infusion services for people with cancer, pain and infectious diseases such as AIDS. T2 Medical has signed up 1,261 physician-investors, or more than 10 percent of the country's referrers for home infusion therapy, according to a recent report. The company says this "effective, low-risk model" is spawning four new clinics a month, including one in the Seattle area. The physicians would refer patients and share profits.

"The basic premise is that we can do it cheaper and provide better quality," said Dr. Peter Hashisaki, an infectious-disease specialist in Bellevue, who helped organize a local investment group. That group included doctors who would not refer patients.

Hashisaki, who said it was not certain if the federal government would allow the arrangement because of concerns about conflicts of interest, set up the infusion clinic earlier this year but then sold it out to T2 Medical.

So while the Seattle business no longer has local physician-owners, T2 is still looking for physicians to invest in drug-infusion therapy.

Kidney dialysis. Last year, three kidney specialists asked the state to approve their plan to set up a new dialysis center with offices in Seattle and Kirkland. The plan was turned down in March.

The new center would have been a profit-making venture in competition with the Northwest Kidney Center, a nonprofit which holds a state-certified monopoly in the county. Officials with Northwest argued that the competition would duplicate services.

Most of all, it would have hurt them in the balance sheet: the three doctors who wanted to defect and start their own dialysis business had been providing more than one in seven of the total referrals received by the Northwest Kidney Center.

"You might say it's protecting turf, but we think it's been pretty good turf," said Dr. Christopher Blagg, Northwest's executive director.

Dr. Millie Tung, a Bellevue kidney specialist and co-sponsor of the plan, said the investors got a legal opinion that their plan was ethical as well as legal before they started. She said more competition would be good for patients.

Tung said the group was unfairly accused of planning to "cost shift" by referring uninsured patients to Northwest, while keeping insured patients themselves.

"We just had to say how we haven't even done anything yet?" Tung said, "When you get into it, you learn about the politics of medicine, which is kind of upsetting. To me, it was a patient care issue, making it more convenient for people."

Remote heart-monitoring. A family doctor in Snohomish County, who spoke on condition of anonymity, said a group of cardiologists asked him to invest in a remote heart-monitoring facility.

Underlying the offer was the notion that the family doctor would refer patients to the heart monitor—and the more he did, the more money he and the cardiologists would make.

This doctor bought into the investment. But he felt queasy about the backscratching nature of it all, realizing he could be influenced at least subconsciously on marginal calls.

Later, warned by Medicare that the federal government frowned on such a joint venture, the doctor sold out.

Sometimes, when hospitals and clinics see the money to be made, the independent doctors themselves become victims of abuse.

Two types of doctors are especially vulnerable: radiologists, who read MRIs, computed tomography or CT scans and X-ray images, and pathologists, who analyze tissues and body fluids.

Because patients who need such services rarely just walk in the door, these doctors depend on referrals.

Sometimes, the referring doctors ask for a cut of those profits. Other times, it's the employing clinic or hospital looking for a piece of the action.

Profit-sharing: Some doctors, including a national pathologists' group, complain bitterly that some hospitals and clinics are essentially extorting money from them in exchange for supplying patients.

Says Dr. Donald Hesch, a North Seattle radiologist: "There's been more than one radiologist in the past few years who's been tossed out because they don't go along with the reprehensible financial practices of the hospital."

Larry Farnes, co-owner of Physical Therapy Specialists in Tacoma, said his business suffered when he refused to pay extra costs requested by a group of doctors who'd been sending him patients.

It was the principle of the thing, Farnes said—a principle that ended up costing him hundreds of thousands of dollars.

Ten years ago, Farnes' practice was thriving in a perfect location at a large Tacoma medical clinic. But Farnes said the doctors who owned the clinic tried to get him to agree that in exchange for their continued patient referrals, he would not ask them to pay him for $100,000 in improvements he'd made in the clinic building.

Farnes refused. He was told to leave. The referrals stopped coming.

Later he turned down an offer to move into another building with another guaranteed source or referrals. The quid pro quo had been a rent estimated at $2,000 to $5,000 a month above the market price. He considered it a kickback.

"We didn't want to do referral-for-profit," Farnes said. "We ended up paying the price. We lost from half to three-quarters of the practice, and it was devastating."

Rebates. Dr. Robert Gibb, a retired pathologist in Whatcom County, said he quit a hospital staff in the 1970s because the hospital expected him to give it a third of his gross receipts from the work they sent him.

He also said he turned down a deal from a Seattle-based laboratory that would do a test at a low rate and let him bill the insurance company at a higher rate. The practice, once common, is now considered illegal.

Others took the deal. Gibb remembers one doctor bragging he made $25,000 a year off laboratory referrals.

"I never had to rebate anybody or make deals. I probably didn't make the income I see from surveys that pathologists make, but at the same time we did our own thing," Gibb said. "And I could look in the mirror every morning."

Thomas, the Anacortes pathologist, also said times have changed since the days when referring physicians were given computers and other expensive forms of "payola" as inducement.

But times haven't changed that much, either, Thomas said. Referring doctors still own medical businesses outside of their specialties, and the reason in some cases is to affect their decision-making on where they send patients.

"It should be based on quality," Thomas said. "It shouldn't be based on a profit motive for people who control the referral."

PRESCRIPTION FOR PROFITS: SURGEONS ORDER TESTS AT FIRM THEY OWN

(By Duff Wilson)

BREMERTON—Bonnie Mertz wondered why an orthopedic surgeon wanted her to get a high-tech picture of her right knee, when it was her thigh that was killing her.

"But I thought, well, he's a doctor, he must know what he's talking about."

Her pain, which had started two days after surgery for bunions, turned out to be nerve damage from a tourniquet that had been wrapped around her thigh during the operation.

So it was not surprising the magnetic-resonance image showed Mertz's knee was in fine condition.

The bill to find this out was $500.

Months later, Mertz learned a disturbing fact about the orthopedic surgeon who had

sent her for the test: he owned part of the business that profited from it.

Mertz, a 46-year-old bookkeeper, believes she was taken. Mertz says other doctors she has consulted since then, because of continuing pain from the nerve damage, told her the test was obviously unnecessary.

"I'm not stupid," she says. "The more I thought about it, the more I thought it was wrong."

Mertz's orthopedic surgeon, Dr. Paul McCullough, is a co-owner of Northwest Diagnostic Imaging Inc., a company under federal investigation—and considered the leading example in this state of a practice known as physician self-referral.

Eleven of the company's 15 owners are, like McCullough, doctors in a position to refer patients for imaging tests. The business has proved extremely lucrative.

People to whom some of the owners have talked say the doctors invested about $10,000 a piece nine years ago. They and other sources say the doctors took profits in each of the past two years of more than $100,000 apiece.

The owners won't confirm or deny those figures, but company president Gary Durday, a nonphysician, denied any improprieties. McCullough did not return repeated phone calls.

The only physician-owner who would comment is a radiation oncologist, Dr. Don Hebard, who now practices in Tacoma. Hebard said the investors were thinking of their patients, not their pocket-books, when they set up Northwest as the state-of-the-art imaging center in Kitsap County.

"We brought a service that would otherwise not be possible," Hebard said. "The physicians who knew their right from their left side wanted the best care they could get for patients, so they put this together."

Magnetic-resonance imaging has proved of great value to medicine. Picture it as a superadvanced X-ray that relies on magnets and computers to scan the body. MRI equipment can cost $2 million or more. Tests generally cost $500 to $1,000 or more.

Critics, though, including a number of other local doctors, say the financial risk was minimal and the profits excessive.

Northwest Diagnostic shows the pressures that business can place on medical interests. Congress and federal agencies are cracking down on self-referrals, saying they raise medical costs.

The criminal division of the U.S. Department of Health and Human Services Inspector General is investigating Northwest Diagnostic. Though investigators refused comment to The Seattle Times, a company attorney confirmed Northwest is under investigation. People who have been interviewed by agents say the probe, including subpoenaed records, focuses on whether Northwest's ownership violates a Medicaid/Medicare anti-kickback law.

The law is intended to prevent federal money from being used to pay kickbacks to doctors for their referrals. Excessive profits, under the law, can be considered a form of indirect kickback.

It's not just insurance companies that pay. A lot of taxpayer money is involved. Medicare paid Northwest Diagnostic nearly $2.5 million over the past five years, including $583,000 last year, according to Medicare records.

And the conflict-of-interest concerns are held not only by federal agents and patients like Mertz, but by some doctors in the Bremerton area. But because the investors are among Bremerton's medical elite, many of the other doctors are afraid to comment on them.

"I have to live here," said one.

"Kitsap is probably a microcosm of a lot that's going on in medicine today," said Dr. Thomas Case, an ophthalmologist. "You have factions. You have the big guys against the little guys. It's a very interesting set of dynamics, and you'll find in any of these that money is the bottom line."

One surgeon, a newcomer to the area, did speak out against the practices of the "big guys" who own Northwest.

Dr. Reed Burch, a knee specialist and one of a handful of orthopedic surgeons in Kitsap County, said he believed there has been "flagrant abuse" of the MRI for unneeded tests on knees.

"It doesn't take too many of those tests to help the machine pay for itself and begin pumping up profits for the group that invested in the facility," Burch said.

Burch has communicated with many other area doctors and has seen patients who were previously referred to Northwest.

"I think patients are being overcharged in that type of situation, and it's being overused. I think a lot of time the MRI is being used as a substitute for a good physical exam."

Burch said he's spoken with some of the investors about this and they get "as angry as can be, just red in the face."

Dr. Charles Muller, a longtime member of the Kitsap County Medical Society ethics committee, recently confronted one co-owner of Northwest Diagnostic. He told the doctor to withdraw the bill for a test that turned out to be unneeded. Muller said the doctor had not even seen the patient before ordering the test.

"We just laid it on him that he ought to refund the fee," he said.

"I think it's unethical for physicians to hold a piece of the cake because it's subject to abuse," Muller added. "There's a temptation to overuse and overcharge."

In another case, a woman who went into Northwest to be checked for lower back pain ended up with magnetic images of her upper back and neck. The referring doctor hadn't even seen her. She filed a complaint with the Kitsap County Medical Society and got $1,200 back on an $1,800 bill.

The ethics of doctor ownership were not clearly defined when Northwest Diagnostic opened in 1983. Then, doctor ownership was seen as a way to raise capital and provide patients with equipment that the hospital itself didn't want to buy—an ownership pattern that was not questioned by the American Medical Association until last December.

Durday knew just whom to solicit when he set up the business. By all accounts an astute businessman, Durday was working at the time as the imaging technologist at the computed tomography (CT) scanner at Harrison Hospital in Bremerton.

For investors in the competing business, Durday turned to the top referring doctors in the area. They were the orthopedists, neurologists, oncologists and vascular surgeons, who, year after year, referred the most patients to the hospital scanner. Durday, Hebard and two radiologists, who read the MRI results, are also investors but are not in a position to refer patients. Durday said the hospital CT scan was overflowing with work at the time. Northwest started with its own CT scan, later adding other services, including the first full-time magnetic resonance imaging machine in the county.

Durday, now vice president of the American Imaging Association, a trade group, said he had no purpose other than to bring better service and technology to town.

He said federal law changed since 1983 to make Northwest's physician ownership possibly illegal, and now, he and other owners are trying to sell part of the business to bring it in line with the new rules. Durday said Northwest is being targeted unfairly.

The 11 investors in Northwest who are referring physicians make up less than 5 percent of the county's medical community. Last year, they referred 25 percent of the clients seen by Northwest.

Durday pointed out this means 75 percent of the referrals were from non-owning doctors—more than 600 of them. But many of those referrals came from a large clinic where three of Northwest's owners have been partners.

The key to profits has always been a steady rate of patient referrals.

Jim Kadlec, a radiologist who worked at Northwest for a few months after the business started, said he observed that some of the physician-investors referred more patients than they used to send to the hospital scanner.

"The rate went up substantially the first few months," Kadlec said.

Dr. Michael Gass Sr., a radiologist who still works in Kitsap County, thought so, too. "I've had the strong impression that there's been a rather remarkable overutilization of the facility because of the self-serving referrals," said Gass, who has talked to other doctors and patients about the practice.

Dr. Mike Schroeter, a radiologist, said he turned down offers to buy into Northwest Diagnostic because he was concerned that referring doctors who were profit-motivated should not own an imaging business. He said the business should be owned by radiologists who work there.

Schroeter said he tried to talk one of the original investors out of the deal on the basis of ethics, Schroeter said this doctor, whom he refused to name, was motivated partly by profits.

"He mentioned something about the fact that it was difficult just doing exams to make a good living," Schroeter said.

Schroeter recently joined with five other radiologists to install a competing MRI in the hospital. "There's a lot of hostility about this," he said.

One of the difficulties in determining whether Northwest Diagnostic overuses its MRI is because doctors have so much discretion in deciding whether a test is needed. One person's overuse is another's preventive medicine. The best of doctors disagree about how soon and how often to scan knees, spines or heads.

One measure might be profits. But Harvey Yampolsky, a Washington, D.C., attorney hired by Northwest, denied the doctor-owners knew, when they set up the firm, their profits would be so high.

"It was a surprise to everybody at the beginning and the returns grew over time," Yampolsky said.

Yampolsky, as chief counsel for the Health and Human Services Inspector General between 1978 and 1990, wrote many of the rules that are now leading to federal probes of alleged kickbacks in medical businesses, including Northwest.

Yampolsky said enforcement, once too lax, is now extreme.

"I think the kickback law should be used for the most corrupt situations, and not be used arbitrarily by the government or by competitors to target the lucky few who have been the most successful," he said.

Yampoisky also helped write a 1989 federal bulletin that identified "red flags" for fraud cases. The bulletin was sent to Northwest and thousands of other companies. The "red flags" include the kinds of features under investigation at Northwest Diagnostic: signing up investors because they were in a position to make referrals, giving those people greater investment opportunities, encouraging them to refer business, allowing them to "borrow" some of their investment from the entity, and paying extraordinary returns.

Durday refused to talk about profits, saying they weren't excessive for the risk involved. He said each of the original investors put down some cash and signed a $750,000 bank note with individual liability.

Dr. John Bartow, former chief radiologist at Harrison Hospital in Bremerton, said he admired the quality of work at Northwest Imaging, but questioned the need for physician ownership. Such ownership is opposed by the AMA and American College of Radiology, he said. Ending such ownership "will eliminate any suggestion of abuse for financial gain."

While you might think the people paying for services at Northwest Diagnostic would be the most concerned about its profits, it's difficult to find financial watchdogs such as the inspector general in Kitsap County.

Kitsap Physicians Service insures almost 40 percent of the eligible people in the area. Rob Schneidler, president of the service, said there have been no problems with overuse of Northwest's MRI. But Schneidler refused to release information about use reviews or reimbursement rates, or even the names of his board of directors.

Two of the service's nine directors—Dr. Ronald Reimer, the chairman, and McCullough—are also part-owners of Northwest Diagnostic. Neither returned phone calls.

When an attorney suggested a strict conflict-of-interest policy for the directors of Kitsap Physicians Service five years ago, Reimer responded with a letter saying many board members and staff could be accused of such conflicts. This included one director who sold substantial advertising to the service, one whose firm sold a large amount of health insurance and one officer who owned part of the building leased by the service.

Reimer's letter said, in part:

"I would not like us to adopt a policy that would exclude these individuals from participating in the organization any more than I would like to adopt a policy that would exclude interested and informed physicians from the community."

[From the Seattle Times, July 28, 1992]

TOUGH LAW ON DOCTORS' REFERRALS ISN'T ENFORCED

(By Duff Wilson)

Washington might have one of the toughest laws in the country against doctors making money from referring patients to an outside medical business.

Doctors could even lose their medical licenses.

But here's the twist: The law is never enforced. No one agrees on how to interpret one part of it. And patients don't seem to know about another part—one that allows them to complain to the medical disciplinary board.

The law seems clear enough. It's unprofessional for doctors to accept any "profit . . . or other valuable consideration . . . for referring patients" to any business where they don't actually perform the medical service.

The law even says the referral could be a crime, unless the doctor tells patients about the financial interests.

But it turns out it's not so clear. Take the classic case: A doctor owns a share of a diagnostic-imaging or physical-therapy business. He or she refers patients there and takes a profit at the end of the year based on the share of ownership.

Legal? Probably. Ethical? Probably not.

Assistant attorney general Joyce Roper says the state Medical Disciplinary Board could take action in a case like that. She should know, since she is the state official responsible for providing legal advice to the board.

But the Washington State Medical Association has a different view. John Arveson, the association official who advises doctors on ethics, said it's both legal and ethical to profit from referrals as long as doctors tell patients about their ownership.

Roper disagrees. And their dis-agreement probably won't be re-solved until a case comes to the disciplinary board.

Nobody has ever complained to the board about such a referral, though. That's a mystery in itself. It's not as if the referrals aren't being made. They are: an estimated one in 10 doctors in this state makes money by referring patients to outside services they own.

"We just haven't had a complaint filed," Roper says. "I suspect people may not be aware" of the law.

The ambiguity of state law is mirrored in some ways by the evolution in thinking on this subject by both doctor and policy-makers.

In other words, the rules are changing. Physician self-referral is being seen as more unethical or more illegal than it was just a few years ago.

Here's a summary of what government agencies and physician groups are doing—and what they're failing to do:

THE FEDERAL GOVERNMENT: A NEW ANTI-KICKBACK LAW

On Jan. 1, a new law took effect prohibiting Medicare payments for tests at laboratories owned by referring doctors or their families. There are exemptions for small office labs and rural doctors.

The Health Care Financing Administration, which runs Medicare and Medicaid, is also collecting information in 10 states to see how ownership affects the use, cost and quality of magnetic resonance imaging, computed tomography or CT scans, X-rays, physical therapy, ambulance companies and private hospitals.

The U.S. Department of Health and Human Services' Office of Inspector General is adding staff to try to crack down through the Medicare anti-kickback law. One hundred FBI counterintelligence agents were recently shifted to a health-fraud task force.

Last year, the inspector general released "safe harbor" rules telling doctors the types of facilities they could still legally own. No more than 40 percent of a business is supposed to be held by investors in a position to influence referrals.

Yet enforcement has still been difficult. The inspector general is short-handed because of a hiring freeze and other priorities.

Elliott Kramer, special agent in charge of West Coast investigations, said he has received complaints and is pursuing cases in Washington, but none of the cases has been wrapped up.

The rules might need to be different for rural areas that find it difficult to attract doctors, says Dr. Hal Clure of Anacortes, former president of the state medical association. "If you have an income stream from labs and X-rays, that makes it more attractive to work in this community."

THE STATES: SOME TAKE TOUGH STAND, SOME DON'T

Some states are cracking down; others, including Washington, aren't.

In New Jersey, one law flatly prohibits investments by doctors after July 1991, and another all such investments, even those made earlier, unethical.

Florida recently passed a tough law allowing $15,000 fines against doctors who refer patients to their own businesses, but it doesn't take effect until 1995.

In California, the Assembly this year passed a measure to ban a variety of self-referrals, but the measure died in the Senate.

WASHINGTON: NO MOVE TOWARD NEW LAW, STUDIES

In this state, the existing law hasn't been enforced, and no new, clearer legislation has come close to passing. No studies are planned to detail the problem, either, according to officials with various state agencies.

Neither the Department of Health nor the Department of Labor and Industries, which pays millions to doctor-owned facilities, nor the Health Care Authority, which insures state employees, is studying the issue.

A proposal to prohibit some doctor ownership was submitted to the Legislature earlier this year by Sen. Jim West, R-Spokane, but it died in committee.

Marvin Young, a dermatologist and immediate past president of the state medical association, took credit for the demise of the bill. Young presented to the committee his own experience in self-referral—one in which he said he acted so ethically, he barely broke even. "It was the perception of the ethical behavior on my part which was the reason the bill died," Young said.

Young and six other dermatologists had financed the Psoriasis Treatment Center in Seattle in 1980, and since then, he said, he has made an average of only $4,600 a year profit on his $50,000 share of the investment.

"In other words, I'm darned near losing money," Young said, complaining that the center is being made into a nonprofit corporation solely in response to the "overkill" of federal law.

Dr. Arnold Relman, editor emeritus of the New England Journal of Medicine, said Young's investment was within ethical boundaries because Young had a direct role in running the practice.

A legislative proposal to set up a health-care commission with power to control costs would also have attacked joint ventures, but it, too, died on intense lobbying.

"We would have given them the power to develop policies not only against the diagnostic conflict of interest but also any abuse of referral," said state Rep. Dennis Braddock, D-Bellingham, Health Care Committee chair.

Braddock, who is retiring as a lawmaker, is promoting an initiative on health-care reform. The measure would give the governor broad powers to ban doctor conflicts of interest.

Initiative 141 needs 150,001 signatures by Dec. 31; the Legislature could either adopt it as written or refer it to the voters in November 1993.

What rules there are in this state are often ignored.

A state law on the books since 1949 says doctors are obligated to tell patients in writ-

ing if they have a financial interest in a medical business to which they refer the patient. Some tell; some don't.

Whether the law makes such referrals illegal or unethical is a matter of debate. A Washington Law Review staff article said the law should be amended to make it more clear.

That was 22 years ago.

INSURANCE AGENCIES TAKE DIFFERING ROLES

Some insurance agencies are active, others aren't.

Blue Shield of King County medical director Dr. Terry Rogers wants to get tough. He says the practice is costing insurance payers a lot of money.

"It's a mess," he said, "a mess."

Rogers said so many magnetic-resonance machines have sprung up in King County, partly from doctor-entrepreneurs trying to make a buck, that Blue Shield is considering insisting on lower prices or second opinions before it will pay for their tests.

Even more controversial: Rogers said Blue Cross might find out who owns the equipment and only deal with "the ethical ones."

But he predicted there would be an outcry and lawsuits.

Blue Cross of Washington and Alaska takes a different approach: It won't talk about it.

In a prepared statement, spokeswoman Kelly Ford said only: "While Blue Cross is concerned about this matter, we are declining an interview in order to allow physician groups the opportunity to address the issue themselves."

DOCTORS DIVIDED ON ETHICS OF INVESTING

The medical community has been divided and slow to act.

In 1986, the American Medical Association adopted a policy to ask doctors to disclose their investments and offer choices to patients who were being referred. The AMA also said doctor profits shouldn't be tied to the number of referrals.

But until recently the AMA continued to take the position that physician investment was ethical.

In December, the establishment line finally changed: The AMA adopted a policy that "in general, physicians should not refer patients" to businesses they own. Such referrals should be allowed only if the doctor can show there is no alternative or if the doctor personally works there.

The American Academy of Neurology responded that the AMA was unfair in penalizing small medical practices that band together to own a scanner or MRI. That would be considered unethical, while doctors in a large clinic, large enough to have a scanner installed in their office building, would be considered ethical.

The AMA's 434-member House of Delegates last month passed a resolution beginning to back away from the new AMA policy. The group said doctors should be able to own laboratories as long as they disclose the ownership to patients.

The new AMA policy against physician ownership, if it stands, leaves the Washington State Medical Association (WSMA) out of step. The WSMA says it is ethical for doctors to own many types of health-care facilities to profit from their referrals as long as they tell patients about the ownership before they refer them.

"We haven't received, to the best of my knowledge, any formal complaints in this area," Arveson said.

Still, responding to the AMA, Arveson said the WSMA Judicial Council, 10 doctors appointed by the president of the state medical association to study ethics issues, will review the issue Nov. 2. The group, chaired by Dr. Maurice Skeith of Seattle, is considering a new ethics opinion on physical ownership. Its discussions will be in private.

If that group believes doctors should be restricted from investing in medical businesses, the opinion would be voted on sometime next year by a group representing all the state's doctors.

Judging from the views of its leaders, though, you wouldn't expect the WSMA position to change. Dr. Jim Kilduff, president of the state medical association, and Tom Curry, its executive director, say physical ownership isn't really a problem.

Kilduff said the managed-care concept, not ownership, is the key to controlling medical costs. He said doctors should be paid a certain amount for a certain diagnosis.

Curry agreed: "That's better than saying you can't own or you can't refer."

Mr. METZENBAUM. Mr. President, I rise today to join my distinguished colleagues, Senator ADAMS and Senator BINGAMAN, in introducing a bill to prohibit doctors from referring their patients to a medical facility simply because they have a financial interest in it. At best, such self-referrals are a blatant conflict of interest—at worst, they are tantamount to a kickback. Most important, doctor self-referral is costing American consumers billions of dollars a year because it encourages high prices for and overuse of health care.

The Congress has already taken the first step to address the problem by limiting doctors' ability to refer their medicare and medicaid patients to clinics in which they have a financial interest. Our bill goes even farther to eliminate these costly and abusive practices by making it unlawful for doctors to refer any patient to a health care facility in which they have a financial interest, unless there is a good reason to do so. The ban would apply regardless of whether the doctor's financial interest was in the form of a limited partnership, joint venture, general partnership, or stock ownership interest, and whether government, private insurers or patients paid the bill.

It is clear to me that self-referral allows doctors to profiteer at the expense of their patients. For example, Florida researchers found that physician-owned laboratories in their State performed twice as many tests per patient as independent laboratories. Likewise, the inspector general's office at the Department of Health and Human Services found that the patients of referring doctors who invested in clinical labs received 45 percent more services than medicare patients in general.

Doctor self-referral has also created problems for our Federal antitrust agencies because it fosters unfair competition and high prices for medical care. Currently, the Federal Trade Commission [FTC] has about a dozen investigations underway into physician joint ventures that it suspects may be unfairly eliminating competition and charging high prices.

The FTC's concern is that when a group of specialists get together and agree to send all their patients to a medical facility that they own jointly, independently-owned facilities can be driven out of business because they cannot compete with the doctors. Too often the result of this unfair competition is that the specialists end up with high-priced monopoly that has little or no incentive to offer patients high quality health care at reasonable rates.

Let me give you an example of what can happen. A young mother of two was misdiagnosed as having a breast tumor by a slipshod diagnostic imaging clinic in which her gynecologist had a financial stake. This young women did not know that her doctor had an investment in that clinic. Furthermore, Newsweek reported that she "believes that she was sent to an inferior clinic and put through a terrifying ordeal just to line her physician's pockets."

The profits to be made from doctor self-referral have also spawned a disturbing partnership between physicians and the business community that is turning doctors into deal-makers at the expense of the patients' best interests. A perfect example of this trend is a company called T2—often referred to as "T-squared", which has made millions of dollars by establishing joint ventures with referring doctors. To date, more than 1,700 doctors have invested in over 100 T2 "infusion-therapy" centers, which provide intravenous medication and nutrition to patients in their homes.

T2 operates successfully by using its stock as a sales tool to sign up doctors who have patients to refer to its centers. The result is that for a modest initial investment, selected doctors acquire a permanent equity interest in T2's center, and so they continue to refer their patients there.

These doctor-investors also profit handsomely from their referrals because these captive clinics tend to charge patients much higher prices for their services. For example, at T2's infusion therapy center in Atlanta a 2-week treatment with the AIDS drug cytovene cost $4,000, while the cost of the same treatment across town at an independent clinic was only $1,100.

An offshoot of T2, Radiation Care is using this same strategy to corner the market on outpatient radiation centers to treat cancer patients. This company also selects doctor-investors based solely on their ability to refer patients to its clinics. Not surprisingly, almost all the company's revenues come from referrals by physicians who own stock.

Both Radiation Care and Wall Street bank on the fact that locking in a network of doctors will make these centers profitable. And they are right, at least as far as the doctor-investors are concerned. The doctors who were offered Radiation care stock at $1 to $2 a share, saw the value of that stock

climb to over $16 a share when the company went public earlier this year. It appears to me that Radiation Care's doctor-investors are making a windfall at their patients' expense.

Our bill would stop doctors from getting the kind of sweetheart stock deal in exchange for patient referrals that T2 and Radiation Care are cashing in on. Under our bill, self-referrals would be banned if doctor-investors bought stock on terms that were not also available to Americans in other walks of life.

I believe that the Congress must act now to protect vulnerable and unsuspecting patients from inappropriate physician self-referrals before the problem gets worse. Last year, a study by the Florida Health Care Cost Containment Board found that two out of five doctors in that State have investments in a medical business to which they can refer their patients. For selected services the number was even higher: Florida doctors own 93 percent of all the diagnostic imaging centers in that State.

Even the Bush administration has acknowledged that doctor self-referrals are getting out of hand. They proposed a limited ban on Medicare payments for doctor self-referrals for a handful of medical services, in their so-called comprehensive health reform package. Our bill would go farther than their limited proposal by banning inappropriate self-referrals for all types of facilities and services.

The Congress cannot look to the administration or the private sector to protect vulnerable patients from inappropriate physician self-referrals. The American Medical Association [AMA], which should be taking the ethical high ground on this issue, has all but turned its back on the problem. This past June, the AMA's house of delegates voted to reverse the ban of physician self-referral that it had adopted just 6 months earlier. In doing so, the AMA has made it clear that it won't provide any leadership to deal with a problem that is costing the country billions of dollars every year due to overcharges and overuse and putting patients health and lives at risk.

I expect critics to argue that our bill is unfair because we are treating doctors differently than other professional entrepreneurs. The fact is that medicine is not like the services delivered by other professionals, and therefore should be treated differently. In medicine, the doctors make virtually all the decisions that dictate how much demand there will be for a particular kind of health care service, and, ultimately, its cost. Therefore, by allowing the same professionals who create the demand for a service to profit from its delivery, we invite overuse and abuse. By banning self-referral, our bill assures that a patient's health and well-being will be a doctor's only consideration in prescribing a course of treatment.

The bill also contains provisions requiring that a patient be billed directly by a health care facility for the services delivered there. This proposal will also save precious health care dollars. Senator ADAMS has discussed that provision in the summary of the bill which he has placed in the RECORD.

In closing, I want to encourage all Senators to carefully review this important bill. The high cost of health care will continue to get higher and patient care will suffer if the Congress doesn't step in to ban inappropriate doctor self-referrals. I urge you all to join us in sponsoring this bill.

Mr. BINGAMAN. Mr. President, one of the most important tasks facing the Congress and the Nation is gaining control of health care costs. If we are ever to achieve comprehensive health care reform, cost containment needs to be our highest priority. I am therefore pleased to join SENATOR ADAMS today in introducing the "Ethics in Referrals and Billing Act of 1992." This important initiative will help slow rapidly-escalating health care costs in the United States by putting manageable, common-sense controls on a significant source of health cost inflation: physician self-referral.

The trends in U.S. health care spending are well known: since 1980, we have increased spending an average of 10 to 12 percent every year. If that rate continues, we will double our spending every 7 years. This year, we will spend an estimated $800 billion—a figure that exceeds the entire budgets of most of the world's economies. Little imagination is needed to envision the day when only the richest among us will be able to afford health care.

Gaining control of health care spending is not easy. A number of complex, interrelated factors are involved. Inflation in the general economy is amplified in the health sector. A growing population, and an aging population, increase overall costs. The Health Care Financing Administration estimates that nearly one-third of the increases in cost in recent years are attributable to the intensity and volume of health services due to population growth and demand for upgraded, higher intensity services. This includes clinical tests and procedures that do not increase the specificity or sensitivity of diagnosis or the efficacy of treatment.

A particularly onerous example of increased intensity and volume occurs when a physician enters into a health services joint venture arrangement, thereby gaining a financial interest in an independent health care facility. Joint venture arrangements come in a variety of forms, the most common occurring when a physician makes an investment in a facility that provides physical therapy or rehabilitation programs, diagnostic imaging, radiation therapy, or another type of service to which he or she may refer patients. The benefit to the physician, in terms of income and tax advantages, ranges from small sums to thousands of dollars per year. But one thing remains constant: the success or failure of the joint venture depends on the physician's ability to make patient referrals.

A number of studies have documented the relationship between physician joint ventures and increased health facility use rates. Most recently, the Journal of the American Medical Association reported on a 1991 survey commissioned by the Florida Health Care Cost Containment Board. The Florida study found that 40 percent of Florida physicians involved in direct patient care had an investment interest in some type of health care business to which they referred patients. More than 90 percent of the physician-owners were concentrated in specialties likely to require special services, such as internal medicine, surgery, or general practice. Based on their findings, the researchers concluded that the percentage of physicians participating in joint ventures is much higher than the "12 percent of physicians billing Medicare" estimated by the Inspector General of Health and Human Services in 1989.

In his 1989 study, the Inspector General reported that patients of physicians who own or invest in clinical laboratories receive 45 percent more clinical laboratory services than all Medicare patients, regardless of place of service. The Florida Health Care Cost Containment Board found that physician ownership led to 27 percent more home health visits per patient and between 35 and 43 percent more physical therapy visits per patient, depending on the extent of the facility's services.

The Florida study evaluated the use of magnetic resonance imaging and computed tomographic scanning services by contrasting three metropolitan statistical areas in Florida (Jacksonville, Miami, and Orlando) with Baltimore, Maryland. Residents of the Florida cities received 14, 65, and 35 percent more scans, respectively, than residents of Baltimore. Using this methodology, the Forida Board determined that residents of that State used computed tomographic scans 5.4, 27.9, and 14.3 percent more, respectively, than residents in Baltimore.

These findings lead to an obvious conclusion: when a physician has a financial interest in a referral service, the physician is more likely to refer to that service. This fundamental principle has been recognized by many physicians, including members of the American Medical Association. In March, the AMA's Council on Ethical and Judicial Affairs issued a statement concluding:

". . . in general physicians should not refer patients to a health care facility out-

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side their office practice at which they do not directly provide care or services when they have an investment interest in the facility. Physicians may invest in and refer to an outside facility if there is a demonstrated need in the community for the facility and alternative financing is not available."

Unfortunately, the advice of the Council on Ethical and Judicial Affairs apparently has been rejected by the general membership of the American Medical Association. In June, delegates to the AMA's annual meeting voted to significantly weaken a previously-approved ethical behavior standard for self referral. In the absence of a commitment to voluntary action, the need for this legislation is clear.

Fundamentally, this is consumer protection measure. In my view, visits to the doctor should not required detailed questioning of his or her financial interests. Our health care system should reward innovation, hard work, and diligence. Care should be delivered because it serves the needs of the patient, not because it provides additional income to the physician. To achieve these goals, it is imperative that physicians cease to invest in joint ventures created solely to increase health care use. The legislation we are introducing today, the "Ethics in Referrals and Billing Act," protects consumers and serves as a reminder to health providers that they have a scared trust to serve their patients above and beyond personal financial interests.

Self-referral is a complex issue. In some situations, and in rural areas particularly, self-referral may benefit communities and patients. Our bill permits self-referral that benefit consumers, but it prohibits monopolistic acts of self-referral that inhibit competition.

Mr. President, we need to control health care costs. We need to make health care affordable for all Americans. We need to balance the ability of markets to create competitive prices with effective regulation. We need to stop health care profiteering. Through legislation such as the "Ethics in Referrals and Billing Act," we can achieve these critical objectives.

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

S. 3187. A bill to amend title XIX of the Social Security Act to improve programs related to home- and community-based care and community-supported living arrangements, and for other purposes; to the Committee on Finance.

LONG-TERM CARE LEGISLATION

• Mr. GRAHAM. Mr. President, in February of this year, I convened an Aging Committee hearing in Lauderhill, FL, on the subject of long-term care; specifically, how the Federal Government can best encourage utilization of home- and community-based services.

At that hearing, I heard from consumers, Government officials, and providers that long-term care is an integral component of the growing health crisis which will touch the lives, directly or indirectly, of almost all Americans. Families are increasingly vulnerable to financial ruin and emotional strain from the devastating cost and burden of long-term care for their loved ones.

Part of the problem is the desire by caregivers and persons with chronic health needs alike to stay at home. Approximately 86 percent of Floridians prefer long-term care services at home. Despite this, during 1990–91, Florida spent $838 million on nursing home care, compared to $66 million for community long-term care programs. Nationally, total spending for persons with chronic illnesses or functional limitations totaled an estimated $57.8 billion in 1988. Unfortunately, only 23 percent of this amount was targetted to home- and community-based care.

For this reason, many witnesses testified that we must adjust the fiscal relationship between community and institutional programs. This does not have to occur at the expense of nursing home programs. Instead, it should be achieved by reducing the need for institutional care through the diversion of long-term care clients to a greatly expanded—both at the service level and funding source—network of home- and community-based programs. It can be accomplished by developing a continuum of care—services that are available in both urban and rural areas which fit the needs of the mildly to moderately to severely chronically ill or disabled person.

To meet this challenge, we must build the infrastructure for the continuum of care now. Florida, a bellwether State, experienced the startling growth in the elderly population which the rest of the Nation will undergo. In Florida, by the year 2000, about 370,000 persons will be over 85, versus 208,000 today, representing a 78-percent increase. The 85-year-plus category is the group at highest risk of institutionalization.

The young-old in Florida, or those over 60 years represent 3.1 million out of the 13 million State residents. While some of these persons may need minor custodial assistance, many of them will take care of their ailing parents in the home.

In order to provide a continuum of care to this diverse and increasing population, we must pursue a multitiered strategy. In the long term, we should build our Federal and State system so that in the year 2000 we are not overwhelmed financially or in terms of service delivery capability. We must make sure that both public and private providers, case managers, and outreach workers are accessible, knowledgeable, and available. Public and private resources should be developed so that persons in need of care know whether to stay at home and utilize home- and community-based resources or to enter an institution for a short- or long-term period.

One example of a model for the Nation is Florida's successful home- and community-based program, Community Care for the Elderly [CCE]. CCE was established in 1980 to provide a continuum of care for functionally impaired older persons within every Florida county. The CCE Program assists persons in living dignified and reasonably independent lives in their own homes or those of their caregivers through the development and expansion of home- and community-based health and social services.

In the short term, the Federal Government should improve and expand existing Federal and State home- and community-based long-term care programs. Through special Medicaid and Medicare programs and waivers, States can offer these services to the elderly and disabled. I have identified three Medicaid and Medicare programs which, when combined, provide $735 million in home- and community-based programs over 5 years. I am introducing legislation to improve, expand, and extend these programs so States, consumers, and providers can access them.

The legislation I am introducing today would accomplish the above long- and short-term goals.

First, the bill requires the Secretary of the Department of Health and Human Services to provide Congress with a comprehensive report on the Federal Government's role in long-term care policy a year after the bill's enactment. The study will consider specifically home- and community-based services. It is my hope that the Federal Government will then take the necessary steps to provide humanely for the medical and social service needs of the Nation's growing elderly population.

Second, the bill improves the Medicaid frail elderly home- and community-based care program created under OBRA 90. This program provides a capped entitlement option, $580 million over 5 years, within the Medicaid Program permitting States to provide home- and community-based care to disabled individuals age 65 or over otherwise eligible for Medicaid without a waiver.

Because of certain requirements on both States and providers, such as required State participation regardless of availability of Federal funds, only two States have applied for the $70 million in available program dollars for fiscal year 1992. My bill would require States to give notice of their participation and then guarantee them a certain funding level. I would, however, consider other approaches to an allocation process which guarantee States a funding level. The legislation would also allow States to broaden the eligibility

standards. Last, it would require a yearly evaluation of the program, specifically, of its cost effectiveness.

Third, my bill would make mostly technical changes to the community supported living arrangements [CSLA] program also created under OBRA 90. The program allows up to eight States to provide personal assistance, support services, and rehabilitation to individuals with developmental disabilities without a Medicaid waiver. Federal costs are capped at $100 million over 5 years.

My bill would clarify that only three recipients can reside in any living arrangement receiving CSLA funding. Additionally, it would provide that persons living without family or guardians are eligible to participate in CSLA.

Finally, the bill reauthorizes $15 million for the Medicare Alzheimers Program created by OBRA 1986, increasing the current authorization level from $55 to $70 million.

Providers in eight States receive funding under the MAP Program. Demonstration services include: case management services; home- and community-based services; and mental health services. The MAP Program remains one of the only promising models of Medicare home- and community-based care available for a population in need of specialized services. The evaluation of the demonstration projects will provide Federal policymakers and the States with valuable information about this population.

Mr. President, as the experience in my State indicates, long-term care is an important and dynamic issue. As the baby boomer population comes of age, our Nation must make some difficult decisions on how to provide for their health and social service needs. A thoughtful, coordinated strategy, which considers both quality of life and fiscal priorities, will serve our Nation well. I ask unanimous consent that the full text of my bill and a summary be printed in the RECORD immediately following my remarks.

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

S. 3187

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. REFERENCES TO SOCIAL SECURITY ACT.

Except as otherwise specifically provided, whenever in this Act an amendment 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 that section or other provision of the Social Security Act.

SEC. 2. HOME AND COMMUNITY CARE FOR THE FRAIL ELDERLY.

(a) DEFINITION OF FUNCTIONALLY DISABLED ELDERLY INDIVIDUAL.—Section 1929(b)(1)(C) (42 U.S.C. 1396t(b)(1)(C)) is amended to read as follows:

"(C) subject to section 1902(f) (as applied consistent with section 1902(r)(2))—

"(i) is receiving supplemental security income benefits under title XVI (or under a State plan approved under title XVI), or

"(ii) at the option of the State—

"(I) is described in section 1902(a)(10)(C), or

"(II) has income (as determined under section 1612 for purposes of the supplementary security income program) that does not exceed three times the maximum amount of income that an individual may have and obtain benefits under such program.".

(b) DETERMINATIONS OF FUNCTIONAL DISABILITY.—Section 1929(c)(1) (42 U.S.C. 1396t(c)(1)) is amended—

(1) in subparagraph (A)—

(A) by striking "3" and inserting "5", and

(B) by striking "toileting, transferring, and eating; or" and inserting "bathing, dressing, toileting, transferring, and eating;",

(2) in subparagraph (B)—

(A) by striking "of the following 5 activities of daily living: bathing, dressing, toileting, transferring, and eating" and inserting "of the 5 activities of daily living described in subparagraph (A)", and

(B) by striking the period at the end and inserting a semicolon, and

(3) by adding at the end the following new subparagraphs:

"(C) needs substantial supervision due to cognitive or other mental impairment and needs substantial assistance or supervision from another individual with at least 1 of the 5 activities of daily living described in subparagraph (A) or in complying with a daily drug regimen; or

"(D) needs substantial supervision from another individual because such individual engages in inappropriate behaviors that pose serious health or safety hazards to such individual or others.".

(c) SURVEY AND CERTIFICATION FOR CERTAIN COMMUNITY CARE SETTINGS.—

(1) IN GENERAL.—Section 1929(i) (42 U.S.C.1395t(i)) is amended—

(A) in paragraph (1), by adding at the end the following new subparagraph:

"(D) SPECIAL RULE FOR CERTAIN SMALL COMMUNITY CARE SETTINGS.—For purposes of this paragraph, the terms 'community care setting' and 'setting' shall not include a community care setting that is not a provider of home and community care.", and

(B) in paragraph (3), by adding at the end the following new subparagraph:

"(F) SPECIAL RULE FOR CERTAIN SMALL COMMUNITY CARE SETTINGS.—For purposes of this paragraph, the terms 'community care setting' and 'setting' shall not include a small community care setting that is not a provider of home and community care.".

(2) ADDITIONAL RESPONSIBILITIES FOR CASE MANAGERS.—Section 1929(d)(2) (42 U.S.C. 1396t(d)(2)) is amended—

(A) by amending subparagraph (A) to read as follows:

"(A) has experience or has been trained—

"(i) in establishing, and in periodically reviewing and revising, individual community care plans;

"(ii) in the provision of case management services to the elderly; and

"(iii) with respect to case managers for individuals residing in small community care settings that are not providers of home and community care, in reviewing the compliance of such settings with the requirements set forth in subsection (g)(2);", and

(B) in subparagraph (B)—

(i) by striking "and (iii)" and inserting "(iii)", and

(ii) by striking "occur;" and inserting "occur; and (iv) reviewing the compliance of small community care settings that are not providers of home and community care with the requirements set forth in subsection (g)(2), in coordination with Ombudsmen selected under the State Long-Term Care Ombudsman Program (described in section 307(a)(12) of the Older Americans Act of 1965), and reporting any noncompliance of such settings with such subsection to the State;".

(d) LIMITATION ON AMOUNT OF EXPENDITURES AS MEDICAL ASSISTANCE.—Section 1929(m) (42 U.S.C. 1396t(m)) is amended—

(1) in paragraph (1), by striking "The amount of funds" and inserting "Except as provided in paragraph (5), the amount of funds",

(2) in paragraph (2)—

(A) by striking "Individual Community Care Plan" and inserting "individual community care plan", and

(B) by striking "an election period is the period of 4 or more calendar quarters" and inserting "an election period is a Federal fiscal year (or in the case of States described in paragraph (4)(C)(ii), the period beginning on April 1, 1993, and ending on September 30, 1993)",

(3) by amending paragraph (4) to read as follows:

"(4) ALLOCATION OF MEDICAL ASSISTANCE.—

"(A) IN GENERAL.—All of the funds available to be expended under paragraph (1) during a fiscal year shall be available as Federal medical assistance to the States electing to provide services under this section during such fiscal year.

"(B) GENERAL ALLOCATION FORMULA.—For each fiscal year, beginning with fiscal year 1994, a State which has provided a notice to the Secretary under paragraph (6)(A) shall be allocated an amount of the funds that may be expended under paragraph (1) for such fiscal year equal to the product of—

"(i) the total amount of funds that may be expended under paragraph (1) for such fiscal year; and

"(ii) the amount determined by dividing—

"(I) the number of individuals age 65 or older residing in such State during such fiscal year, by

"(II) the total number of individuals age 65 or older residing in all States which have submitted notices to the Secretary under such paragraph during such fiscal year.

"(C) SPECIAL ALLOCATION FORMULA FOR FISCAL YEAR 1993.—

"(i) FIRST 6-MONTH PERIOD.—For the period beginning on October 1, 1992, and ending on March 31, 1993, each State for which a State plan amendment to provide home and community care under this section has been approved by the Secretary as of the date of enactment of this Act shall be allocated an amount of the funds available under paragraph (1) for fiscal year 1993 equal to the product of—

"(I) $65,000,000; and

"(II) the amount determined by dividing—

"(aa) the number of individuals age 65 or older residing in such State during such fiscal year, by

"(bb) the total number of individuals age 65 or older residing in all States which are providing home and community care under this section on the date of enactment of this Act.

"(ii) SECOND 6-MONTH PERIOD.—For the period beginning on April 1, 1993, and ending on September 30, 1993, a State which has provided a notice to the Secretary under paragraph (6)(B) shall be allocated an amount of the funds available under paragraph (1) for fiscal year 1993 equal to the amount such State would receive under the formula set forth in subparagraph (B) by substituting—

"(I) '(6)(B)' for '(6)(A)', and

"(II) '$65,000,000' for 'the total amount of funds that may be expended under paragraph (1) for such fiscal year'.

"(D) REALLOCATION OF FUNDS.—

"(i) FORMULA FOR REALLOCATION.—

"(I) GENERAL RULE.—Except as provided in subclause (II), within 60 days after the end of each fiscal year, beginning with fiscal year 1993, the Secretary shall pay to each State which provided services under this section during such fiscal year an amount equal to the product of—

"(aa) the total amount of funds that may be expended under paragraph (1) for such fiscal year which remain available at the end of such fiscal year; and

"(bb) the amount determined by dividing the unavailable Federal amount (as defined in clause (ii)) for such State by the total unavailable Federal amount for all the States which provided services under this section during such fiscal year.

"(II) SPECIAL RULE.—The amount determined for payment to a State under subclause (I) shall not exceed the unavailable Federal amount for such State.

"(ii) DEFINITION.—For purposes of this subparagraph, the term 'unavailable Federal amount' means the excess of—

"(I) the amount a State would have received in Federal medical assistance based on such State's expenditures for services provided under this section but for the allocation under subparagraph (B), over

"(II) the amount of Federal medical assistance allocated to such State under subparagraph (B).", and

(4) by adding at the end the following new paragraphs:

"(5) CARRYOVER OF FUNDS TO NEXT FISCAL YEAR.—Beginning with fiscal year 1993, any funds available under paragraph (1) for a fiscal year which remain available after the application of subparagraphs (B), (C), and (D) of paragraph (4) shall be available under paragraph (1) to be expended in the following fiscal year.

"(6) NOTICE TO STATES OF AMOUNTS AVAILABLE FOR ASSISTANCE.—

"(A) IN GENERAL.—

"(i) NOTICE TO SECRETARY.—In order to receive Federal medical assistance for expenditures for home and community care under this section for any fiscal year (beginning with fiscal year 1994), a State shall submit not later than 3 months before the beginning of such fiscal year a notice to the Secretary of its intention to provide such care.

"(ii) NOTICE TO STATES.—Not later than 2 months before the beginning of each fiscal year (beginning with fiscal year 1994), the Secretary shall notify each State that has submitted a notice to the Secretary under clause (i) for the fiscal year of the amount of Federal medical assistance that will be available to the State for such fiscal year (as established under paragraph (4)(B)).

"(B) SPECIAL RULE FOR FISCAL YEAR 1993.—

"(i) NOTICE TO SECRETARY.—In order to receive Federal medical assistance for expenditures for home and community care under this section for the period beginning on April 1, 1993, and ending on September 30, 1993, a State shall submit not later than March 1, 1993, a notice to the Secretary of its intention to provide such care.

"(ii) NOTICE TO STATES.—Not later April 1, 1993, the Secretary shall notify each State that has submitted a notice to the Secretary under clause (i) for the period beginning on April 1, 1993, and ending on September 30, 1993, of the amount of Federal medical assistance that will be available to the State for such period (as established under paragraph (4)(C)(ii)).".

(e) EVALUATIONS AND REPORTS.—Section 1929 (42 U.S.C. 1396t) is amended by adding at the end the following new subsection:

"(n) EVALUATIONS AND REPORTS.—The Secretary shall evaluate the provision of home and community care by States under this section and shall submit to the Committees on Energy and Commerce and Ways and Means of the House of Representatives and the Committee on Finance of the Senate an annual report on the effectiveness of such care, including the cost effectiveness of providing such care, and any recommendations for appropriate legislative action.".

(f) EFFECTIVE DATE.—The amendments made by this section shall be effective on the date of the enactment of this Act.

SEC. 3. AMENDMENTS RELATED TO COMMUNITY SUPPORTED LIVING ARRANGEMENT SERVICES.

(a) DEVELOPMENTALLY DISABLED INDIVIDUAL DEFINED.—Section 1930(b) (42 U.S.C. 1396u(b)), is amended—

(1) by striking "guardian" and inserting "guardian or", and

(2) by striking "3 other" and inserting "3".

(b) CARRYOVER OF AVAILABLE FUNDS.—Section 1930(j) (42 U.S.C. 1396u(j)) is amended by adding at the end the following new sentence: "Beginning with fiscal year 1992, any funds available under the limitations set forth in this subsection for a fiscal year which remain available at the end of such fiscal year shall be available to be expended in the following fiscal year.".

(c) EVALUATIONS AND REPORTS.—Section 1930 (42 U.S.C. 1396u) is amended by adding at the end the following new subsection:

"(k) EVALUATIONS AND REPORTS.—The Secretary shall evaluate the provision of community supported living arrangements services by States under this section and shall submit to the Committees on Energy and Commerce and Ways and Means of the House of Representatives and the Committee on Finance of the Senate an annual report on the effectiveness of such services, including the cost effectiveness of providing such services, and any recommendations for appropriate legislative action.".

(d) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall be effective on the date of the enactment of this Act.

(2) SPECIAL RULE.—In the case of any State which, on the date of enactment of this Act, provides services under section 1930 of the Social Security Act to 4 individuals residing together for purposes of subsection (b) of such section, the amendment made by subsection (a)(2) shall be effective on October 1, 1994.

SEC. 4. ALZHEIMER'S DISEASE DEMONSTRATION PROJECTS.

(a) IN GENERAL.—Section 9342 of the Omnibus Budget Reconciliation Act of 1986 is amended—

(1) in subsection (c)(1), by striking "4 years" and inserting "6 years",

(2) in subsection (d)(1), by striking "fourth year" and inserting "sixth year", and

(3) in subsection (f)—

(A) by striking "$55,000,000" and inserting "$70,000,000"; and

(B) by striking "$3,000,000" and inserting "$4,000,000".

(b) EFFECTIVE DATE.—The amendments made by this section shall be effective on the date of the enactment of this Act.

SEC. 5. REPORT ON LONG-TERM CARE POLICY.

The Secretary of Health and Human Services shall submit a report to the Congress no later than 1 year after the date of enactment of this Act which shall include—

(1) recommendations regarding a plan under which the Federal Government would provide, and finance the provision of, long-term care;

(2) recommendations regarding the appropriate role of the States in a plan for the provision and financing of long-term care;

(3) recommendations regarding a plan under which the Federal Government would provide, and finance the provision of, home and community based care; and

(4) recommendations regarding the appropriate role of the States in a plan for the provision and financing of home and community based care.

SUMMARY OF S. 3187

CURRENT LAW

OBRA '90 created the Medicaid home and community based care for functionally disabled elderly individuals or frail elderly program. This program provides a Medicaid capped entitlement option ($580 million over five years) from FY 90-95 permitting States to provide home and community based care to disabled individuals age 65 or over otherwise eligible for Medicaid without a waiver.

LEGISLATION

Broaden the law's requirement that persons with two of three impaired activities of daily living (ADL) can participate in the frail elderly program to persons with only two of five ADLS.

Allow all persons with dementias, not just persons with Alzheimers, to participate.

At a state's option, allow persons up to three times the SSI level to participate.

Exempt small community care settings which are not providers form survey and certification requirements. Require case managers who have been properly trained to review these small settings.

Require states to inform HHS if they plan to participate in the program before the beginning of a fiscal year.

Guarantee states with a certain amount of funding over one year's election period.

Allow states to use unobligated amounts of spending authority in future years.

Require yearly assessments of the program by HHS.

CURRENT LAW

OBRA '90 created the community supported living arrangements program. The program allows up to eight States to provide personal assistance, support services, and rehabilitation to individuals with developmental disabilities without a Medicaid waiver. Federal costs are capped at $100 million over five years.

LEGISLATION

Allow states to use unobligated amounts of CSLA spending authority in future years.

Clarify that only 3 persons in a setting may receive CSLA funding.

Clarify that persons living with a family or guardian are eligible for the program.

Require yearly assessments of the program by HHS.

CURRENT LAW

OBRA '86 created the Medicare Alzheimers demonstration. In, 1986, it was authorized at $40 million for up to 10 demonstration projects. OBRA '90 extended the authorization at $55 million for two years. The demonstration provides home and community based services for persons with Alzheimers.

LEGISLATION

Provide $70 million for FY 93-95 for the Medicare Alzheimers Program.

LEGISLATION

Require HHS to provide Congress one year following enactment with a report on a federal government plan for a comprehensive longterm care policy and home and community based care.

Require HHS to provide/Congress one year following enactment with a report on a state/federal government comprehensive plan for a long term care and home and community based care.•

By Mr. GRAHAM:

S. 3188. A bill to establish the representative and administrative entities necessary to carry out section 8 of the Florida Keys National Marine Sanctuary and Protection Act; to the Committee on Environment and Public Works.

FLORIDA KEYS WATER QUALITY PROTECTION ACT

• Mr. GRAHAM. Mr. President, I rise today to introduce legislation which will expand and improve the Florida Keys Water Quality Protection Program which was established in Public Law 101-665, the Florida Keys National Marine Sanctuary Act of 1990.

When Congress originally considered legislation to designate the Florida Keys marine sanctuary, individuals testified before the House and Senate that one of the greatest threats to this unique and magnificent coral reef marine ecosystem was poor water quality. It was a common theme with both proponents and opponents of the marine sanctuary designation.

The focus of the original legislation was the development of a management plan by the National Ocean and Atmospheric Administration [NOAA] to balance the commercial, recreational and conservation interests in the Florida Keys. This is a difficult balance to strike. I commend the staff of NOAA and the many involved parties for the efforts they are making to develop a responsible management plan, and I urge NOAA to continue working closely with the citizens of Monroe County on the specifics of the plan.

But unless we go further and do something about water quality, there won't be much of a marine resource to manage. Mr. President, I ask unanimous consent to include at the conclusion of my remarks an August 11, 1992, article from the Miami Herald and an August 10, 1992, article from the St. Peterberg Times about the water quality issues in south Florida which threaten the coral reef and marine habitat of the Florida Keys National Marine Sanctuary.

The legislation I am introducing today establishes a working group, headed by the Director of the Environmental Protection Agency [EPA] and the Governor of Florida, to spearhead development of the Water Quality Protection Program.

Working closely with the Florida Department of Environmental Regulation, the EPA has already begun to identify threats to the water quality of the Keys. But more cooperative action is needed among the various local, State, and Federal agencies.

I am pleased that the Regional Administrator for EPA region IV, which includes Florida, has already taken steps to bring these agencies together. This bill will provide more structure for what is currently an ad hoc task force.

Second, my legislation directs EPA to establish an office in Florida to provide technical and administrative support in the development of the water quality protection plan.

Finally, the bill authorizes appropriations to implement the requirements of the legislation. Mr. President, I ask unanimous consent that the text of the bill also be included in the RECORD, immediately following my remarks and before the inclusion of the newspaper articles.

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

S. 3188

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SHORT TITLE

SECTION 1. This Act may be cited as the "Florida Keys Water Quality Protection Act".

WATER QUALITY PROTECTION PROGRAM

SEC. 2. (a) IMPLEMENTATION OF PROGRAM.—The Administrator of the Environmental Protection Agency is directed to continue the Water Quality Protection Program (hereinafter referred to as the "Program") established in section 8 of the Florida Keys National Marine Sanctuary and Protection Act (16 U.S.C. 1433 note). The Administrator shall implement the Program in cooperation with the State of Florida and the National Oceanic and Atmospheric Administration.

(b) STEERING COMMITTEE.—The Administrator of the Environmental Protection Agency shall with the Governor of Florida establish a Steering Committee to set guidance and policy for the implementation of the Program. Membership shall include the Administrator of the Environmental Protection Agency, the Governor of Florida, the Chairperson of the South Florida Water Management District, the Director of Ocean and Coastal Resource Management of the National Oceanic and Atmospheric Administration, the Director of the National Park Service, the head of the Florida Keys Aqueduct Authority, representatives of local governments in the Florida Keys, and citizens knowledgeable about the Program. The officials referred to in the preceding sentence may designate representatives to serve in their place on the Steering Committee.

FLORIDA KEYS LIAISON OFFICE

SEC. 3. The Administrator of the Environmental Protection Agency shall establish a Florida Keys Liaison Office (hereinafter referred to as the "Liaison Office") in Florida. The Liaison Office location shall be coordinated with the State of Florida and the National Oceanic and Atmospheric Administration. The Liaison Office shall be headed by a Director, and shall have the authority and staff to carry out the duties of the Liaison Office.

DUTIES OF THE LIAISON OFFICE

SEC. 4. The Liaison Office shall—

(1) assist and support the implementation of the Program, including administrative and technical support for the Steering Committee;

(2) assist and support local, State, and Federal agencies in developing and implementing specific action plans designed to carry out the Program;

(3) coordinate the actions of the Environmental Protection Agency with other Federal agencies, including the National Oceanic and Atmospheric Administration and the National Park Service, and State and local authorities, in developing strategies to maintain, protect, and improve water quality in the Florida Keys;

(4) collect and make available to the public publications, and other forms of information that the Program and Steering Committee determine to be appropriate, related to the water quality in the vicinity of the Florida Keys;

(5) on a biennial basis, issue a report to the Congress which—

(A) summarizes the progress of the Program;

(B) summarizes any modifications to the Program and its recommended actions and plans; and

(C) incorporates specific recommendations concerning the implementation of the Program; and

(6) provide for public review and comment on the Program and implementing actions.

GRANTS

SEC. 5. The Administrator of the Environmental Protection Agency is authorized to make grants for projects or studies which will help implement the Program. State agencies, local governments, and non-profit private organizations shall be eligible for such grants.

TECHNICAL ADVISORY COMMITTEES

SEC. 6. The Administrator of the Environmental Protection Agency and the Administrator of the National Oceanic and Atmospheric Administration shall cooperate with the Secretary of Florida's Department of Environmental Regulation to establish a Technical Advisory Committee to assist in the design and prioritization of grants and programs for scientific research and monitoring. The Technical Advisory Committee shall be composed of scientists from Federal agencies, State agencies, academic institutions, private non-profit organizations, and knowledgeable citizens. The Technical Advisory Committee also shall assist in ensuring that grants and programs in scientific research and monitoring are coordinated with other institutions, agencies, and ongoing programs.

AUTHORIZATION OF APPROPRIATIONS

SEC. 7. (a) ENVIRONMENTAL PROTECTION AGENCY.—There are authorized to be appropriated to the Administrator of the Environmental Protection Agency $5,000,000 for fiscal year 1993, $6,000,000 for fiscal year 1994, and $7,000,000 for fiscal year 1995, for the purpose of carrying out this Act.

(b) NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION.—There are authorized to be appropriated to the Secretary of Commerce $300,000 for fiscal year 1993, $400,000 for fiscal year 1994, and $500,000 for fiscal year 1995, for the purpose of enabling the National Oceanic and Atmospheric Administration to carry out this Act.

(c) PERIOD OF AVAILABILITY.—Amounts appropriated under this section shall remain available until expended.

(d) LIMIT ON ADMINISTRATIVE EXPENDITURES.—No more than 15 percent of the

amount appropriated under subsection (a) or (b) for any fiscal year may be expended in that fiscal year on administration and management.

[From the Miami Herald, Aug. 11, 1992]

DECLINE OF RICH FISHERY A MYSTERY—SOME ACTIVISTS, POLITICIANS BEGIN TO PAY ATTENTION

(By Heather Dewar)

Western Florida Bay.—Keys fishermen call this "the dead zone"—a vast area perhaps 450 miles square and growing, where once-sparkling waters teeming with sea creatures have turned to pea-green gruel.

From horizon to horizon, the water's opaque surface is slashed by wind-driven rows of slime—the rotting roots and stems of dead sea grass. The young shrimp that once sheltered in the grass, fattening up to fill Keys fishermen's nets, no longer seem to grow here. Wading birds no longer feed here Boatmen who sought out these waters for their abundant harvest of lobster and stone crabs, tarpon and snook now chart courses elsewhere.

Just 50 miles from downtown Miami, one of Florida's richest and loveliest marine habitats is spiraling toward apparent collapse, seen only by a few scientists and fishermen. And there is evidence that hot, super-salty Florida Bay water has reached the Keys' offshore reefs, where it poses a potential threat to the corals' survival—and the island economy that depends on them.

"Florida Bay is falling apart like a rotting piece of cloth," said marine scientist Jay Zieman of the University of Virginia, who has been studying the bay since 1965. "This is a disaster on the same scale as the Yellowstone fires. But it's underwater, so no one's paying any attention to it."

Alarmed at the bay's dramatic decay and the danger it poses to the United States' only living coral reef, some activists and politicians are beginning to pay attention. Gov. Lawton Chiles plans to tour Florida Bay by helicopter Friday. State and federal environmental protectors are planning a powwow on the bay's problems in Marathon Aug. 27. And Orlando businessman George Barley, who heads a citizen's advisory committee for the Florida Keys. National Marine Sanctuary, has taken experts to Washington to meet with congressmen and White House staffers. Barley's goals: a multi-agency state and federal program to save the bay and more money for research.

"The main threat to the sanctuary is Florida Bay," Barley said. "We're trying to come up with a management plan for the sanctuary. If we don't do something about the bay, it will all be for nothing."

The trouble in Florida Bay has been stewing for at least six years, while experts scratched their heads, scrambled for scant funds to study the problem and prophesied it would soon stop.

But it isn't stopping. In the last six months, the die-off of sea grass has accelerated so much that scientists can't keep track of it. And late summer, the most lethal season of all, is yet to come.

"Florida Bay is undergoing what some people would call catastrophic changes," said Mike Robblee, head of Everglades National Park's marine science section. "We've had massive sea grass die-offs since 1987. That's unprecedented in tropical waters. We've got continuing mangrove die-offs. We've got sponge die-offs. We've got a shrimp harvest that is less than half what it was 10 years ago.

"Florida Bay is telling us something. It's telling us that it's very sick—or at least, changing drastically. And it's telling us that we need to sit up and take notice."

POSSIBLE CULPRIT: HUMANKIND

No one knows exactly what has killed as much as 55 square miles of sea grass—an area the size of Miami and Coral Gables combined. No one is certain what has fueled an explosive and ever-shifting algae bloom that is as large as 30 miles by 15, or killed mangroves in the eastern bay and sponges in the southern bay. Early evidence points the finger at humankind.

Most experts say development has drastically reduced the flow of fresh water across the Glades' sawgrass prairie and into the bay, changing it from an estuary, a place where fresh and salt water mix, into a shallow arm of the sea. Water temperatures and salt levels kept climbing past the point that bay creatures could endure. Now the sea grasses that once sustained bay life are feeding a cycle of destruction, the scientists suspect.

Others say the die-offs may be part of a natural process, worsened by the severe droughts of the last 1980s. A few, like researcher Brian LaPointe of the Harbor Branch Marine Institute, suspect pollutants from cities and farms are to blame.

No one theory can fully explain what's happening now—a die-off so severe that "all bets are off," Robblee said.

The scientists are scrambling for answers because for 15 years, bay research has been neglected in favor of studies on shore. "Basic research that should have been done in the 1970s has not been done," said new Everglades National Park superintendent Richard Ring.

Now there's no money to do the work. The $1.6 million budget for the park's research center has not grown since 1978, and nearly half of its 72 jobs are vacant. The research center was supposed to get an extra $1.6 million next year, but Congress has axed the money.

Top administrators at the Environmental Protection Agency and the National Oceanographic and Atmospheric Administration are talking about the bay's problems. But so far, they haven't spent any money on solving them.

This much is known:

The bay's survival depends on fresh water from the Everglades. For thousands of years a wide, shallow sheet of rainwater flowed across the sawgrass prairies. Traveling slowly through mangrove-lined creeks, the flow lasted long after the rainy season ended. Bay waters were less salty than the sea for all but a month or two, park hydrologist Bob Johnson believes.

One of North America's largest sea grass meadows thrived in the clear, shallow waters. The grasses sheltered young shrimp, scallops, lobsters and small fish. Wading birds feasted on the all-you-can-eat seafood buffet. So did uncountable numbers of tarpon, redfish, snook and bonefish, making the bay a worldwide magnet for sportfishermen.

REDUCED WATER FLOW

But South Florida's massive drainage projects have reduced Glades water flow to perhaps one-tenth of nature's design. Most of the water now comes down the C-111 canal and empties into the far eastern end of the bay.

In the early 1980s, after flooding in West Dade, water managers made more cuts in the bay's water supply. More than 3 million acre-feet of fresh water a year, enough to flood the park's lands three feet deep, are now diverted into the Atlantic.

As the flow ebbed, the bay began to fill with silt, creating isolated pools of hot, salty water. A typical jug of sea water is 35 parts per thousand salt. But bay water samples run as high as 70 parts per thousand salt. At Taylor River, the ancient heart of the bay's fresh water flow where salinity should be zero, Robblee has found 45 parts per thousand.

Meanwhile, researcher Zieman has found bay water temperatures are averaging six-tenths of a degree higher than 30 years ago and sometimes up to three degrees higher than normal.

"You get into that stuff and it's like swimming in urine," he said. "If you get any water in your eyes, you have to stop and rise the salt out immediately. What lives there? Jellyfish and not much else."

High temperatures are most marked in September and October, when cooler water and fading light should make sea grasses breathe more slowly and produce less food. Warm water keeps the plants breathing fast, but they can't get enough light for nourishment, Zieman believes.

Like a marathon runner who doesn't stop to eat, "The grasses are literally starving to death," said Zieman.

Right now the die-off is worst in Sandy Key Basin—"one of the most famous sight-fishing spots for tarpon in the world," according to fishing guide Ben Taylor, a former Colorado banker.

One morning last week, Taylor, poled his 16-foot skiff across acre after acre of bare bay bottom, skeleton-white with silt. "You're looking at a marine desert."

Beyond Sandy Key is an almost-unbroken band of murky water, stretching from Cape Sable at the park's southwestern tip to Islamorada in the Middle Keys. Last summer these waters were Caribbean blue and clear enough to pick out a snail on a grass blade six feet under. Now they are the color of ripe olives. Visibility is about six inches, and there's not much to see except floating strands of dead sea grass.

Most of the floating murk is an algae bloom. Zieman thinks the blooms are caused by rotting grasses, which release nutrients that feed the algae. The cycle of destruction speeds up when the algae block sunlight, causing more grasses to die. Algae is also growing on some Keys reefs, where it can smother corals.

Meanwhile, the population of young shrimp plummets in die-off areas. Researcher Robblee usually finds a dozen hatchlings in a sample of healthy sea grass less than a yard square. Where grasses have died, he typically finds one shrimp.

In 1984, Florida pink shrimp harvests were about 10 million pounds a year. But since the die-offs began in 1987, the catch has fallen to about 4 million pounds.

A startling new finding has alarmed defenders of the reef, which lies just on the other side of the Keys. Researchers from the Florida Institute of Oceanography have discovered hot water lying along the sea floor at Tennessee Reef off Long Key. The hot water should rise to the surface—but it is saltier than the surrounding sea, making it denser and causing it to sink.

The sensitive reef is already under stress, infested with black band disease and occasional bouts of lethal coral bleaching. Scientists know the bleaching is linked to water temperatures of 89 to 90 degrees Fahrenheit and up. The water on Tennessee Reef is now 88 degrees, said researcher David Forcucci.

This summer the institute's scientists are trying to trace the hot, salty, water, which they think is coming from the bay.

FLORIDA'S "BAMBI"

Zieman calls the reef "the Bambi of the South Florida environment," and hopes the threat of harm to its delicate corals and jewel-colored fish may focus attention on the bay's plight.

"People don't realize it's all one ecosystem," he said. "If part of it goes, the whole thing goes. It has to be studied and managed and protected as a whole."

The experts agree the bay cannot be saved without more fresh water. The Army Corps of Engineers plans to install a new water pump to increase the flow a little. The corps is working with water managers on a new water plan for the region, but that will take at least five years.

"Nobody's going to be able to turn on a tap and save Florida Bay," said John Ogden of the Florida Institute of Oceanography. "We have some research to do and some management coordination to do . . . in the richest country in the world, that shouldn't be so impossible.

"What's at stake is the economy of the Florida Keys. The Keys can't survive without tourism. And tourists are not going to pay good money to sit on beaches covered with rotting sea grass."

GOVERNOR TO VISIT BAY BESIEGED BY HUGE ALGAE BLOOM

Everglades National Park—Gov. Lawton Chiles and other state officials will fly over Florida Bay next week to look at an algae bloom that has alarmed South Florida water managers.

"Florida Bay just seems to be getting worse and worse," said Allan Milledge, chairman of the South Florida Water Management District's governing board. Water temperatures, salinity readings and nutrient levels in the bay are "way higher than normal."

Milledge said he asked Chiles to visit the bay next week because "it is important that we all understand what is happening." The bloom covers about 20 square miles, officials say.

Florida Bay is an estuary that serves as the home for large numbers of juvenile pink shrimp, lobsters, stone crabs, gray snappers and red fish.

The bloom of algae on the south end of the bay began forming earlier this summer, Everglades National Park research ecologist Mike Robblee said. Algae, which thrives on sunlight and warm temperatures, commonly blooms in the summer and can deprive other marine life of oxygen.

In addition to an unprecedented algae bloom, sea grass beds throughout the bay have perished with increasing frequency the past five years Robblee said. Areas of the bay that once had clear water are murky, and sponges and stands of black mangroves are dying.

Experts say the bay is suffering from a lack of fresh water. The 1,400 miles of flood-control canals built in South Florida more than 40 years ago have diverted much of the water that used to reach the bay.

In an effort to ease this problem, water management district officials plan to install a pumping station near Taylor Slough within a few days that will increase the amount of water going into the ailing bay.

The pump will move about 100 cubic feet of water a second, said Tom MacVicar, the district's deputy director. An existing pump at the same site sends 160 cubic feet of water a second to the bay.

But using an additional water pump represents on a "drop in the bucket" in solving the bay's problems, said George Barley, chairman of the Florida Keys National Marine Sanctuary Advisory Council.

Poor quality water flowing out of Florida Bay represents a "terrible threat" to delicate coral reefs in the adjacent Keys sanctuary, Barley said.

Milledge said a single visit by Chiles won't cure Florida Bay, but he believes the governor can increase attention to the problem and get government officials moving.●

By Mr. KERRY:

S. 3189. A bill to implement the Protocol on Environmental Protection to the Antarctic Treaty, and for other purposes; to the Committee on Environment and Public Works.

ANTARCTIC ENVIRONMENTAL PROTECTION PROTOCOL ACT

● Mr. KERRY. Mr. President, I am today introducing the Antarctic Environmental Protection Protocol Act of 1992.

The purpose of the legislation is to enable the United States to enforce the Protocol on Environmental Protection to the Antarctic Treaty—protocol—which was negotiated by the parties to the Antarctic Treaty System in October of last year.

The adoption of the protocol was a major milestone in the international effort to protect the environment of Antarctica from the potential ravages of mineral exploration and to establish needed guidelines to minimize harm caused by other activities. As one of the founders of the Antarctic Treaty System, the United States has an obligation to enact strong implementing legislation and to guarantee that its citizens adhere to and—where appropriate—go beyond the minimum standards established by the protocol.

Antarctica is the largest remaining wilderness on our Planet. It provides habitat for vast quantities of wildlife including penguins, seals, whales, krill, fish and seabirds. For obvious, climatological reasons, the ecology of the region is extremely fragile—slow to change but also slow to recover from damage. Antarctica is also home to extraordinarily important scientific research efforts conducted by more than a dozen countries and has become a growing magnet for tourist-related activities.

The Environmental Protocol of 1991 resulted from international concern about evidence of environmental damage caused to Antarctica by human activity. The problems included abandoned fuel drums, appliances and machinery, the use of open-air incinerators, dumping of raw sewage, oil spills, detonation of hazardous chemicals, and a lack of environmental planning. Responsibility for these problems must be shared by many of the parties to the Antarctic Treaty System, including the United States.

The protocol establishes a series of environmental principles governing activities in Antarctica, establishes an advisory committee on environmental protection and provides for a dispute settlement procedure. Annexes to the protocol contain specific guidelines for environmental assessment, the conservation of native plants and animals, the disposal of waste, marine pollution and specially protected areas. Perhaps the most controversial provision is that which essentially bans mineral activity for at least the next 50 years, after which a review process is authorized. A more conclusive or permanent ban on mineral activity was strongly opposed during negotiations by the United States. The legislation I am introducing today, however, is intended to encourage a permanent ban on such activity by any person subject to U.S. jurisdiction.

The Antarctic Environmental Protection Protocol Act I am introducing today is similar to legislation (H.R. 5459) sponsored in the House of Representatives by Representative WALTER JONES of North Carolina. The bill is identical to the version of H.R. 5459 that was approved by the House Committee on Merchant Marine and Fisheries on August 6th, except for minor technical changes and the inclusion of bans on the dumping of raw sewage and the operation of an incinerator after December 31, 1994.

I ask unanimous consent to submit at this point in the RECORD a copy of the Antarctic Environmental Protection Protocol Act of 1992 and a section-by-section summary of that legislation.

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

S. 3189

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 "Antarctic Environmental Protection Protocol Act of 1992".

SEC. 2. FINDINGS AND PURPOSES.

(a) FINDINGS.—The Congress finds the following:

(1) The Protocol on Environmental Protection to the Antarctic Treaty establishes international mechanisms and creates legal obligations necessary for the establishment of Antarctica as a natural reserve, devoted to peace and science.

(2) The Protocol serves important United States environmental and resource management interests, while at the same time preserving the freedom of scientific investigation in Antarctica.

(3) The Protocol represents an important contribution to United States long-term legal and political objectives of maintenance of Antarctica as an area of peaceful international cooperation.

(4) The United States needs to establish new legal arrangements to fulfill its obligations under the Protocol, and to provide comprehensive environmental protection for Antarctica that will maintain Antarctica as a platform for the conduct of research essential to understanding the global environment.

(b) PURPOSE.—The purpose of this Act is to provide the legislative authority necessary to implement, with respect to the United

States, the Protocol on Environmental Protection to the Antarctic Treaty.

SEC. 3. DEFINITIONS.

For purposes of this Act—

(1) "Administrator" means the Administrator of the Environmental Protection Agency.

(2) "Antarctica"—

(A) means the area south of 60 degrees south latitude, except that with respect to mineral resource activity and living marine resources, the term means the area south of the Antarctic Convergence as defined in section 303(1) of the Antarctic Marine Living Resources Convention Act of 1984 (16 U.S.C. 2432(1)); and

(B) includes all ice shelves in that area.

(3) "Antarctic mineral resource activity"—

(A) means prospecting, exploration, or development in Antarctica; and

(B) does not include scientific research within the meaning of article III of the Antarctic Treaty.

(4) "Antarctic Treaty" means the Antarctic Treaty signed in Washington, D.C., on December 1, 1959.

(5) "Development"—

(A) means any activity, including logistic support, which takes place following exploration, the purpose of which is exploitation of specific Antarctic mineral resource deposits; and

(B) includes processing, storage, and transport activities.

(6) "Director" means the Director of the National Science Foundation.

(7) "Exploration"—

(A) means any activity, including logistic support, the purpose of which is the identification or evaluation of specific Antarctic mineral resource deposits; and

(B) includes exploratory drilling, dredging, and other surface or subsurface excavations undertaken to determine the nature and size of mineral resource deposits and the feasibility of their development.

(8) "Harm" means to engage or attempt to engage in any of the following:

(A) Flying or landing helicopters or other aircraft in a manner that disturbs concentrations of native mammals or native birds.

(B) Using vehicles or vessels, including hovercraft and small boats, in a manner that disturbs concentrations of native mammals or native birds.

(C) Using explosives or firearms in a manner that disturbs concentrations of native mammals or native birds.

(D) Willfully disturbing breeding or molting native birds or concentrations of native mammals and native birds by persons on foot.

(E) Significantly damaging concentrations of native plants, by—

(i) landing aircraft, driving vehicles, or walking on native plants, or

(ii) similar means.

(F) Any activity in Antarctica that results in the significant adverse modification of the habitat of any species or population of native mammal, native bird, native plant, or native invertebrate.

(G) Similar practices designated by the Secretary as such by regulation under section 9.

(9) "Mineral resource"—

(A) means any nonliving natural nonrenewable resource (or part or product thereof) found in or recovered from Antarctica;

(B) includes fossil fuels and minerals, whether metallic or nonmetallic; and

(C) does not include ice, water, or snow.

(10) "Native bird" means any member, at any stage of its life cycle (including eggs), of any species of the class Aves which is indigenous to Antarctica or that occurs there seasonally through natural migration, including any part of any such member.

(11) "Native invertebrate" means any terrestrial, freshwater, or marine invertebrate, at any stage of its life cycle, that is indigenous to Antarctica.

(12) "Native mammal" means any member, at any stage of its life cycle, of any species of the class Mammalia, that is indigenous to Antarctica or that occurs there seasonally through natural migration, including any part of any such member.

(13) "Native plant" means any terrestrial, freshwater, or marine vegetation (including bryophytes, lichens, fungi, and algae) at any stage of its life cycle (including seeds and other propagules) that is indigenous to Antarctica.

(14) "Person" means—

(A) any individual, corporation, partnership, trust, association, or other entity existing or organized under the laws of the United States;

(B) any officer, employee, agent, department, or other instrumentality of the Federal Government or of any State or political subdivision thereof; and

(C) any foreign individual, corporation, legal entity, or department of any foreign nation, that is subject to the jurisdiction of the United States.

(15) "Prohibited product" means—

(A) any polychlorinated biphenyl;

(B) nonsterile soil;

(C) any polystyrene bead, chip, or similar form of packaging;

(D) any pesticide (other than a pesticide required for scientific, medical, or hygiene purposes); and

(E) any product designated as such by the Secretary by regulation under section 9.

(16) "Prospecting" means any activity, including logistic support, the purpose of which is the identification of mineral resource potential for possible exploration and development.

(17) "Protocol" means the Protocol on Environmental Protection to the Antarctic Treaty, done at Madrid on October 4, 1991, and all annexes thereto.

(18) "Secretary" means the Secretary of Commerce, acting through the Under Secretary of Commerce for Oceans and Atmosphere.

(19) "Specially managed area" means any area within Antarctica, including any marine area, that is designated in accordance with the Antarctic Treaty as an area within which activities are planned and coordinated so as to avoid use conflicts, improve co-operation, or minimize environmental impacts.

(20) "Specially protected area" means any area within Antarctica, including any marine area, that is designated in accordance with the Antarctic Treaty as an area for the protection of its outstanding environmental, scientific, historic, aesthetic, or wilderness values, any combination of these values, or ongoing or planned scientific research.

(21) "Specially protected species" means—

(A) all species of the genus Arctocephalus (fur seal) and all species of the genus Ommatophoca rossii (ross seal); and

(B) all other species of native mammal, native bird, or native plant designated as a specially protected species by the Secretary pursuant to regulation under section 9.

(22) "Take" and "taking" means—

(A) to harass, harm, molest, pursue, hunt, shoot, wound, kill, trap, capture, or collect a native mammal or native bird;

(B) to remove or damage such quantities of native plants that their local distribution or abundance would be significantly affected; or

(C) to attempt to engage in any such conduct.

(23) "Vessel of the United States" has the meaning provided in section 2101(46) of title 46, United States Code.

(24) "Vessel subject to the jurisdiction of the United States" means a foreign vessel—

(A) that is used to provide logistic support to United States facilities in Antarctica, or

(B) that transports passengers to, from, or in Antarctica, if—

(i) there is an agreement between the United States and the flag state of the foreign vessel;

(ii) the flag state of the foreign vessel is a party to the Protocol and has referred the matter to the United States; or

(iii) the United States may exercise jurisdiction over the vessel in accordance with generally recognized principles of international law.

SEC. 4. REPRESENTATIVE, ARBITRATORS, AND INSPECTORS.

(a) REPRESENTATIVE TO COMMITTEE FOR ENVIRONMENTAL PROTECTION.—

(1) The Secretary of State, in consultation with the Secretary and the Administrator, shall appoint an officer or employee of the United States as the United States representative to the Committee for Environmental Protection under the Protocol.

(2) The officer or employee shall have the technical qualifications required to serve in this capacity.

(b) ARBITRATORS.—

(1) The Secretary of State shall designate up to 3 arbitrators to serve on the Arbitral Tribunal to be established under the Protocol.

(2) Each arbitrator shall be experienced in Antarctic affairs, have thorough knowledge of international law, and have the highest reputation for fairness, competence, and integrity.

(c) INSPECTORS.—The Secretary of State shall designate persons to serve as inspectors under Article 14 of the Protocol.

(d) COMPENSATION.—The United States representative to the Committee for Environmental Protection shall receive no additional compensation by reason of that person's service as such representative.

SEC. 5. UNLAWFUL ACTIVITIES.

(a) IN GENERAL.—It is unlawful for any person—

(1) to conduct an activity within Antarctica, including scientific research, expeditions, and logistical support to United States facilities and bases, in a manner inconsistent with the Protocol;

(2) to engage in, finance, or otherwise knowingly provide assistance (including logistic support) to an Antarctic mineral resource activity;

(3) to introduce into Antarctica a prohibited product;

(4) within Antarctica, to conduct open burning, to operate a landfill at a United States coastal facility or to operate an incinerator after December 31, 1994;

(5) to bring a dog into Antarctica;

(6) to use leaded fuel within Antarctica at a United States facility or in an aircraft or vessel of the United States or an aircraft or vessel subject to the jurisdiction of the United States;

(7) to transport passengers to, from, or within Antarctica by a vessel of the United States or a vessel subject to the jurisdiction of the United States, unless the person has an agreement with the vessel owner or oper-

ator under which the owner or operator is required to comply with the Act to Prevent Pollution from Ships (33 U.S.C. 1901 et seq.), as amended by this Act;

(8) to discharge untreated sewage into the waters or onto the ice shelves of Antarctica;

(9) except as authorized by a permit issued under section 6—

(A) to take within Antarctica a native mammal or native bird, or a native plant in such quantities that their local distribution or abundance would be significantly affected;

(B) to take within Antarctica a specially protected species;

(C) to introduce into Antarctica an animal or plant that is not indigenous to Antarctica;

(D) to enter a specially protected area; or

(E) to operate an incinerator on or before December 31, 1994;

(10) to violate a provision of this Act, a regulation promulgated under this Act, or the terms of a permit issued under this Act;

(11) to ship, transport, offer for sale, sell, purchase, import, export, or have custody, control or possession of, a native bird, native mammal, native plant, native invertebrate, or mineral resource which the person knows, or reasonably should have known, was taken in violation of this Act;

(12) to refuse to permit an authorized officer or employee of the United States to board a vessel of the United States or a vessel subject to the jurisdiction of the United States for the purpose of conducting any search or inspection in connection with the enforcement of this Act;

(13) to assault forcibly, resist, oppose, impede, intimidate, or interfere with an authorized officer or employee of the United States in the conduct of any search or inspection described in paragraph (12);

(14) to resist a lawful arrest or detention for any act prohibited by this section;

(15) to interfere with, delay, or prevent, by any means, the apprehension, arrest, or detention of another person, knowing that such other person has committed any act prohibited by this section; or

(16) to attempt to commit an act prohibited by this section.

(b) EXCEPTION FOR EMERGENCIES.—An activity described in subsection (a)(9) shall not be unlawful if it is committed under extreme emergency circumstances specified by the Secretary under section (9)(b)(9), to prevent the loss of human life or involving the safety of a ship or aircraft.

SEC. 6. PERMITS.

(a) ACTIVITIES REQUIRING PERMITS.—The following activities shall not be conducted by any person in Antarctica, except in accordance with a permit issued by the Secretary in accordance with this section:

(1) The conduct or support by a person of an expedition by vessel of more than 10 passengers to, from, or within Antarctica.

(2) The operation of United States facilities within Antarctica, including the construction or decommissioning of a United States base, building, or airfield.

(3) An activity specified under section 5(a)(9) as requiring a permit.

(b) CRITERIA FOR PERMITS.—The Secretary may issue a permit which authorizes the conduct within Antarctica of an activity specified in subsection (a), only if the activity is consistent with this Act and the Protocol, including the principles in Article 3 of the Protocol.

(c) GENERAL PERMITS.—The Secretary may, by regulation issued under section 9, issue general permits for a category of activity referred to in subsection (a) in Antarctica if the Secretary determines that the activities in the category are similar in nature and will cause no more than a minor or transitory impact on the environment of Antarctica when performed cumulatively. A general permit issued under this subsection shall meet the criteria for the issuance of permits under subsection (b) and any applicable terms and conditions under subsection (g).

(d) APPLICATIONS.—

(1) Applications for permits under this section shall be made in such manner and form, and shall contain such information, as the Secretary shall prescribe by regulation.

(2) The Secretary shall publish notice in the Federal Register of each application which is made for a permit under this section. The notice shall invite the submission by interested parties, within 30 days after the date of publication of the notice, of written data, comments, or views with respect to the application. Information received by the Secretary as a part of an application shall be available to the public as a matter of public record.

(e) ACTION ON CERTAIN PERMIT APPLICATIONS.—

(1)(A) The Secretary shall refer to the appropriate official an application received by the Secretary for a permit under this section requesting authority to undertake an action with respect to—

(i) a native mammal which is a marine mammal within the meaning of section 3 of the Marine Mammal Protection Act of 1972 (16 U.S.C. 1362);

(ii) a native animal, native bird, native plant, or native invertebrate which is an endangered species or threatened species under the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.);

(iii) a native bird which is protected under the Migratory Bird Treaty Act (16 U.S.C. 701 et seq.); or

(iv) the discharge of treated sewage into the waters or onto the ice shelves of Antarctica.

(B) For purposes of this subsection, the term "appropriate official" means—

(i) the Administrator, in the case of an application for a permit to undertake an action with respect to the discharge of untreated sewage, and

(ii) in any other case the Secretary of the Interior or the head of the appropriate office in the Department of Commerce, as determined by the Secretary of Commerce based on statutory responsibilities with respect to the action to be undertaken under a permit.

(2) After receiving a copy of an application from the Secretary under paragraph (1), the appropriate official shall promptly determine and notify the Secretary whether or not an action proposed in the application would be prohibited by a law administered by the appropriate official or otherwise requires a permit or other authorization under a law administered by the appropriate official.

(3) If the appropriate official notifies the Secretary that an action proposed in the application would be prohibited by a law administered by the appropriate official, the Secretary may not issue a permit under this section with respect to the proposed action.

(4) If the appropriate official notifies the Secretary that an action proposed in the application requires a permit or other authorization under a law administered by the appropriate official, the Secretary may not issue a permit under this section with respect to the proposed action unless the other required permit or authorization is issued by the appropriate official and a copy thereof is submitted to the Secretary.

(5) The issuance of a permit or other authorization by the appropriate official for the carrying out of an action with respect to an activity listed in paragraph (1) shall not be considered to entitle the applicant concerned to the issuance by the Secretary of a permit under this section.

(f) ISSUANCE OF PERMITS.—As soon as practicable after receiving an application for a permit under this section, or, in the case of an application to which subsection (e) applies, as soon as practicable after the applicable requirements of that subsection are complied with, the Secretary shall issue, or deny the issuance of, the permit. Within 10 days after the date of the issuance or denial, the Secretary shall publish notice of the issuance or denial in the Federal Register, including a description of any permit terms and conditions.

(g) TERMS AND CONDITIONS OF PERMITS—

(1) A permit may not be issued under this section for an activity unless—

(A) the application for the permit contains sufficient information to allow the Secretary to make a prior assessment of, and informed judgment about, the possible impacts of the proposed activity on Antarctica, including cumulative impacts, and on the value of Antarctica for the conduct of scientific research; and

(B) if required by section 7, an environmental impact statement has been prepared and circulated by the Secretary of State to the parties to the Antarctic Treaty and to the Committee for Environmental Protection in accordance with the Protocol.

(2) Each permit issued under this section shall specify—

(A) if applicable—

(i) the number and species of native mammals, native birds, native plants, or native invertebrates to which the permit applies;

(ii) the amount of sewage which may be discharged in Antarctica under the permit and the conditions for that discharge;

(iii) if a native mammal or native bird is authorized to be taken, transported, carried, or shipped under the permit, the manner (which manner must be determined by the Secretary to be humane) in which such action shall be accomplished, and the area in which any such taking shall occur;

(iv) if a plant is authorized to be taken under the permit, the location and manner in which it shall be taken; and

(v) if a United States facility, building, or airfield is to be constructed or decommissioned within Antarctica under the permit, the conditions for minimizing the impact of the construction or decommissioning on the environment of Antarctica;

(B) the period during which the permit is valid; and

(C) other terms and conditions as the Secretary or appropriate official considers necessary and appropriate to ensure that an action authorized under the permit is carried out in a manner consistent with the Protocol, this Act, and the regulations issued under this Act.

(3) A permit which authorizes a taking (other than of a specially protected species)—

(A) may be issued only for the purpose of providing—

(i) specimens for scientific study or scientific information;

(ii) specimens for museums, zoological or botanical gardens, or other educational or cultural institutions; or

(iii) for the unavoidable consequences of scientific research activities; and

(B) shall ensure that—

(i) no more native mammals, native birds, and native plants are taken than are strictly necessary to carry out the activities authorized under subparagraph (A);

(ii) only small numbers (as determined by the Secretary) of native mammals, native birds, and native plants are taken, and in no case more native mammals or native birds than can, in combination with other permitted takings, normally be replaced by natural reproduction in the following season;

(iii) the variety of species and the balance of the natural ecological systems within Antarctica are maintained; and

(iv) the taking is determined, after peer review, to further a bona fide scientific purpose.

(4) A permit which authorizes the taking of a specially protected species may be issued only if—

(A) there is a compelling scientific purpose for the taking as determined by peer review of the proposed permit;

(B) the actions authorized under the permit will not jeopardize an existing natural ecological system or the survival or recovery of that species; and

(C) nonlethal techniques are used, if appropriate.

(5) A permit which authorizes the introduction of a nonindigenous animal or plant into Antarctica—

(A) may only be issued for animals and plants to be used in a laboratory; and

(B) shall require that, prior to the expiration of the permit, the animal or plant shall be removed from Antarctica, unless the Secretary determines that it poses no risk to native mammals, native birds, or native plants.

(6) A permit which authorizes the entry into a specially protected area may be issued only if—

(A) there is a compelling scientific purpose for the entry as determined by peer review;

(B) the actions allowed under the permit will not jeopardize the natural ecological system existing in the area; and

(C) the actions allowed under the permit are in accordance with any management plan applicable to that area.

(7) A permit which authorizes the operation of United States facilities within Antarctica, including the construction or decommissioning of a United States base, building, or airfield within Antarctica, may be issued for a 5-year period, beginning with the austral season following the enactment of this Act, if the Secretary determines that such operation will take place in a manner consistent with the Protocol and the provisions of this Act. The Secretary shall conduct annual inspections of the operation of United States facilities in Antarctica under the permit. The Secretary may renew the permit for additional 5-year periods, if the Secretary makes the determination required by the first sentence of this paragraph.

(8) A permit which authorizes the construction or operation of an incinerator within Antarctica—

(A) shall contain terms and conditions recommended by the Administrator to ensure that emissions from the incinerator are reduced to the maximum extent practicable;

(B) shall restrict the material which may be incinerated under the permit to food and food-contaminated waste; and

(C) shall not allow an incinerator to be operated in Antarctica after December 31, 1994, unless the Secretary, in consultation with the Director and Administrator, finds and reports to the Congress 6 months prior to this date that there is no feasible and practicable alternative for the disposal of food and food-contaminated waste.

(9) A permit which authorizes the disposal of sewage within Antarctica, other than from a vessel, shall contain terms and conditions recommended by the Administrator to minimize the impact of the disposal on the Antarctic environment.

(10) A permit which authorizes a person to conduct one or more expeditions of 10 or more passengers by vessel to, from, or within Antarctica—

(A) may be effective for a period of not more than 3 years; and

(B) may be issued only if—

(i) the Secretary determines that the expeditions under the permit will be conducted consistent with the Protocol and the provisions of this Act, and

(ii) the permit authorizes the Secretary to place observers on vessels to monitor compliance with the permit.

(h) JUDICIAL REVIEW.—(1) Any applicant for a permit may obtain judicial review pursuant to chapter 7 of title 5, United States Code, of—

(A) the terms and conditions of a permit issued by the Secretary under this section; or

(B) refusal of the Secretary to issue a permit.

(2) Review under this subsection may be initiated by filing a petition for review in the United States district court for the district wherein the applicant for a permit resides or that is the principal place of business of the applicant, or in the United States District Court for the District of Columbia, within 60 days after the date on which the permit is issued or denied.

(i) MODIFICATION, SUSPENSION, AND REVOCATION.—

(1) The Secretary may modify, suspend, or revoke, in whole or in part, a permit issued under this section—

(A) if there is a change in conditions which makes the permit inconsistent with this Act or the provisions of the Protocol, including Article 3;

(B) in order to make the permit consistent with a change made after the date of issuance of the permit to a regulation prescribed under section 9; or

(C) in a case in which there has been a violation of a term or condition of the permit, or of a regulation prescribed under this Act or a provision of this Act relating to that permit.

(2) If the Secretary proposes a modification, suspension, or revocation of a permit under this subsection, the permittee shall be afforded opportunity, after due notice, for a hearing by the Secretary with respect to the proposed modification, suspension, or revocation. If a hearing is requested, the action proposed by the Secretary shall not take effect before a decision is issued after the hearing, unless the proposed action is taken by the Secretary to protect the Antarctic environment, and its dependent and associated ecosystems, or to prevent the loss of human life.

(3) The Secretary shall publish notice of the modification, suspension, or revocation of a permit in the Federal Register within 10 days after the date of the Secretary's decision, including the reasons for the action.

(j) PERMIT FEES.—The Secretary shall establish and charge fees for processing applications for permits under this section. The amount of the fees shall be commensurate with the administrative costs incurred by the Secretary in processing the application, but shall not include the costs to the Secretary of preparing an environmental impact statement that is required under section 7.

SEC. 7. ENVIRONMENTAL ASSESSMENT OF ACTIVITIES WITHIN ANTARCTICA.

(a) FEDERAL ACTIVITIES.—

(1) Each Federal agency which plans to conduct an activity in Antarctica, including the conduct of scientific research and the provision of logistical support to United States facilities, shall review the activity to determine whether it will have a minor or transitory impact on the environment of Antarctica. If a Federal agency determines, through the preparation of an environmental assessment or otherwise, that the proposed activity will have no more than a minor or transitory impact on the environment of Antarctica, the activity may proceed if the agency monitors the activity to assess and verify the minor or transitory impact of the activity.

(2) If a Federal agency determines, through the preparation of an environmental assessment or otherwise, that a proposed activity will have more than a minor or transitory impact on the environment of Antarctica, the agency shall prepare an environmental impact statement on the proposed activity.

(3) The Council on Environmental Quality shall issue regulations necessary to implement subsection (a).

(b) NONGOVERNMENTAL ACTIVITIES.—The Secretary, in consultation with the Chairman of the Council on Environmental Quality, shall issue regulations establishing procedures for the environmental assessment of nongovernmental activities conducted by any person within Antarctica, consistent with the National Environmental Policy Act of 1969 and the Protocol.

(c) REVIEW BY PARTIES TO THE ANTARCTIC TREATY.—No decision shall be taken to proceed with or permit an activity for which an environmental impact statement is prepared under this section until—

(1) the draft statement has been made publicly available for at least 90 days and circulated by the Secretary of State to all parties to the Antarctic Treaty and the Committee for Environmental Protection at least 120 days before the next meeting of the Antarctic Treaty Consultative Parties;

(2) there has been an opportunity for consideration of the draft statement at a meeting of the Antarctic Treaty Consultative Parties, except that no decision to proceed with a proposed activity shall be delayed through the operation of this paragraph for more than 15 months from the circulation of the draft statement;

(3) a final statement has been made publicly available at least 60 days before the commencement of the proposed activity; and

(4) monitoring procedures have been established to assess and verify the impacts of the activity.

(d) EXCEPTION.—This section shall not apply in cases of extreme emergency relating to the prevention of the loss of human life or involving the safety of a ship or aircraft.

SEC. 8. MONITORING, INSPECTIONS, PLANS, REPORTS.

(a) MONITORING.—

(1) The Secretary, in consultation with the Director and the Administrator, shall develop and implement a plan for the monitoring of activities within Antarctica, including the operation of United States facilities, scientific research, and expeditions, that have more than a minor or transitory impact on the environment of Antarctica.

(2) The Secretary may conduct a program for monitoring the health of the waters of Antarctica and the Southern Ocean as part of a global ocean observing system.

(b) INSPECTIONS.—The Secretary of State may agree on behalf of the United States to

a system of observation and inspection and to interim arrangements pending the establishment of such a system pursuant to Article 14 of the Protocol.

(c) LAND-BASED CONTINGENCY PLANS.—The Secretary, in consultation with the Administrator and the Secretary of the department in which the Coast Guard is operating, shall develop requirements for contingency plans for response to incidents caused by persons within Antarctica with potential adverse effects on the environment of Antarctica in accordance with Article 15 of the Protocol.

(d) REPORTS.—The Secretary of State shall—

(1) circulate to all parties to the Antarctic Treaty, after notice and public comment, all inspection and compliance reports and all actions taken to ensure compliance with the Protocol, including notice of activities undertaken in cases of emergency; and

(2) bring promptly to the attention of other parties to the Antarctic Treaty all known incidents of noncompliance with the Protocol by the nationals of those parties.

SEC. 9. REGULATIONS.

(a) IN GENERAL.—The Secretary and the Secretary of the department in which the Coast Guard is operating, after consultation with appropriate officials, shall promulgate such regulations as are necessary and appropriate to implement this Act, taking into account the Antarctic Treaty, any measures adopted thereunder, the Protocol, and any awards issued thereunder by a competent tribunal.

(b) SPECIFIC REGULATIONS.—The Secretary shall issue regulations which—

(1) designate, as native species—

(A) each species of the class Aves,

(B) each species of the class Mammalia, and

(C) each species of plant,

which is indigenous to Antarctica or occurs in Antarctica through natural dispersal or migration;

(2) specify those actions which shall, and those actions which shall not, be taken within Antarctica to protect, in accordance with the applicable provisions of the Protocol, members of each native species designated under paragraph (1);

(3) identify each area designated by the parties to the Antarctic Treaty as a specially protected area or specially managed area, and implement the provisions of the management plan applicable to such area;

(4) designate, as a specially protected species, any species of native mammal, native bird, native plant, or native invertebrate which is approved by the United States for special protection in addition to those listed in Annex II to the Protocol;

(5) designate, in consultation with the Administrator, as a prohibited product for purposes of section 3(15)(E) any substance which the Secretary finds liable, if the substance is introduced into Antarctica, to create hazards to human health, to harm living resources or marine life, to damage amenities, or to interfere with other legitimate uses of Antarctica;

(6) specify, in consultation with the Director, the Administrator, and the Secretary of the department in which the Coast Guard is operating, those actions which shall, and those actions which shall not, be taken to prevent or control the discharge or other disposal of prohibited products from any source within Antarctica;

(7) designate, in consultation with the Director, those animals and plants that are not indigenous to Antarctica, which either may, or may not, be introduced into Antarctica, and specify those control measures which shall be observed with respect to any such animals or plants which are allowed to be introduced;

(8) specify, in consultation with the Director and the Administrator, those actions which shall be taken for the cleanup of United States facilities in Antarctica in accordance with Annex III to the Protocol;

(9) specify, in consultation with the Chairman of the Council on Environmental Quality, the emergency circumstances with respect to which section 5(b) and section 7(d) apply;

(10) issue general permits in accordance with section 6(c);

(11) set forth the form, content, and manner of filing, if applicable, of all notices, reports, declarations, or other documentation which may be required with respect to the carrying out of any act for which a permit is required under section 6;

(12) establish, in consultation with interested persons, including scientific researchers, guidelines that distinguish Antarctic mineral resource activities from scientific research within the meaning of Article III of the Antarctic Treaty; and

(13) specify those actions which shall, and those actions which shall not, be taken to ensure compliance by persons whose activities are permitted under section 6 with the principles of Article 3 of the Protocol.

(c) SCHEDULE FOR REGULATIONS.—The regulations required by this section shall be issued within 2 years after the date of enactment of this Act.

SEC. 10. CIVIL PENALTIES.

(a) ASSESSMENT OF PENALTIES.—

(1) Any person who is found by the Secretary, after notice and opportunity for a hearing in accordance with subsection (b), to have committed any act prohibited by section 5 shall be liable to the United States for a civil penalty. The amount of the civil penalty shall not exceed $25,000 for each violation. Each day of a continuing violation shall constitute a separate offense. The amount of any civil penalty shall be assessed by the Secretary by written notice. In determining the amount of the penalty, the Secretary shall take into account the nature, circumstances, extent, and gravity of the prohibited acts committed, and, with respect to the violator, the degree of culpability, any history of prior offenses, ability to pay, and such other matters as justice may require, to the extent that the information is reasonably available to the Secretary.

(2) The Secretary may compromise, modify, or remit, with or without conditions, any civil penalty which may be imposed under this section.

(b) HEARINGS.—Hearings for the assessment of civil penalties under subsection (a) shall be conducted in accordance with section 554 of title 5, United States Code. For the purposes of conducting any such hearing, the Secretary may issue subpoenas for the attendance and testimony of witnesses and the production of relevant papers, books, and documents, and may administer oaths. Witnesses summoned shall be paid the same fees and mileage that are paid to witnesses in the courts of the United States. In case of contempt or refusal to obey a subpoena served upon any person pursuant to this subsection, the district court of the United States for any district in which the person is found, resides, or transacts business, upon application by the United States and after notice to the person, shall have jurisdiction to issue an order requiring the person to appear and give testimony before the Secretary or to appear and produce documents before the Secretary, or both, and any failure to obey such order of the court may be punished by the court as a contempt thereof.

(c) REVIEW OF CIVIL PENALTY.—Any person against whom a civil penalty is assessed under subsection (a) may obtain review thereof in the appropriate district court of the United States by filing a complaint in the court within 30 days after the date of the order and by simultaneously sending a copy of the complaint by certified mail to the Secretary, the Attorney General, and the appropriate United States Attorney. The Secretary shall promptly file in the court a certified copy of the record upon which the violation was found or the penalty imposed, as provided in section 2112 of title 28, United States Code. The court shall set aside the findings and order of the Secretary if the findings and order are found to be unsupported by substantial evidence, as provided in section 706(2)(E) of title 5, United States Code.

(d) RECOVERY OF CIVIL PENALTIES.—The Attorney General may seek to recover in any appropriate district court of the United States (1) any civil penalty imposed under this section that has become a final and unappealable order and has been referred to the Attorney General by the Secretary, or (2) any final judgment rendered under this section in favor of the United States by an appropriate court. In such action, the validity and appropriateness of the final order imposing the civil penalty shall not be subject to review.

(e) PENALTIES UNDER OTHER LAWS.—The assessment of a civil penalty under subsection (a) for any act shall not be considered to preclude the assessment of a civil penalty for the act under any other law.

SEC. 11. CRIMINAL OFFENSES.

(a) OFFENSES.—A person is guilty of an offense if that person knowingly commits an act prohibited by section 5.

(b) PUNISHMENT.—An offense under subsection (a) is punishable by imprisonment for not more than one year, or a fine under title 18, United States Code, or both.

(c) OFFENSES UNDER OTHER LAWS.—A conviction under subsection (a) for any act shall not be considered to preclude a conviction for the act under any other law.

SEC. 12. ENFORCEMENT.

(a) RESPONSIBILITY.—The provisions of this Act shall be enforced by the Secretary and the Secretary of the department in which the Coast Guard is operating. The Secretaries may utilize by agreement, on a reimbursable basis or otherwise, the personnel, services, and facilities (including aircraft and vessels) of any other department or agency of the United States in the performance of such duties.

(b) POWERS OF AUTHORIZED OFFICERS AND EMPLOYEES.—An officer or employee of the United States who is authorized by the Secretary, the Secretary of the department in which the Coast Guard is operating, or the head of a department or agency of the United States which has entered into an agreement with either Secretary under subsection (a), to enforce the provisions of this Act, a regulation promulgated under this Act, or a permit issued under this Act may, in enforcing such provision—

(1) secure, execute, and serve an order, warrant, subpoena, or other process, which is issued under the authority of the United States or by a court of competent jurisdiction;

(2) search without warrant a person, place, vehicle, or aircraft subject to the jurisdic-

tion of the United States if there are reasonable grounds to believe that a person has committed an act prohibited by section 5;

(3) with or without a warrant board and search or inspect a vessel of the United States or vessel subject to the jurisdiction of the United States;

(4) seize without warrant—

(A) an evidentiary item if there are reasonable grounds to believe that a person has committed an act prohibited by section 5,

(B) a native mammal, native bird, native plant, native invertebrate, or mineral resource (or part of product thereof) with respect to which such an act is committed,

(C) a vessel of the United States (including its gear, furniture, appurtenances, stores, and cargo), a vessel subject to the jurisdiction of the United States (including its gear, furniture, appurtenances, stores, and cargo), a vehicle, aircraft, or other means of transportation that is subject to the jurisdiction of the United States used in connection with such an act, and

(D) a gun, trap, net, or equipment used in connection with such an act;

(5) offer and pay rewards for information which may lead to the apprehension of persons violating such provisions;

(6) make inquiries, and administer to or take from, any person an oath, affirmation, or affidavit, concerning a matter which is related to the enforcement of such provisions;

(7) in coordination with the Secretary of the Treasury, detain for inspection and inspect a package, crate, or other container, including its contents and all accompanying documents, upon importation into or exportation from the United States;

(8) make an arrest with or without a warrant with respect to any act prohibited by section 5, if such officer or employee has reasonable grounds to believe that the person to be arrested is committing such act in his or her presence or view or has committed such act;

(9) exercise enforcement powers conferred on the officer or employee under a system of observation and inspection, or interim arrangements pending the establishment of such a system, which the President has agreed to on behalf of the United States; and

(10) exercise any other authority which the officer or employee is permitted by law to exercise.

(c) SEIZURE.—A property or item seized pursuant to subsection (b) shall be held by any officer or employee of the United States who is authorized by the Secretary or the Secretary of the department in which the Coast Guard is operating, pending the disposition of civil or criminal proceedings concerning the violation relating to the property or item or the institution of an action in rem for the forfeiture of such property or item. Such authorized officer or employee may, upon the order of a court of competent jurisdiction, either release the seized property or item to the wild or destroy the property or item if the cost of maintenance of the property or item pending the disposition of the case is greater than the legitimate market value of the property or item. The authorized officer or employee and all officers or employees acting by or under his or her direction shall be indemnified from any penalties or actions for damages for so releasing or destroying the property or item, unless the actions of the officer or employee are grossly negligent or constitute willful misconduct. The authorized officer or employee may, in lieu of holding such property or item, permit the owner or consignee thereof to post a bond or other satisfactory surety.

(d) FORFEITURE.—

(1) A native mammal, native bird, native plant, native invertebrate, or mineral resource with respect to which an act prohibited by section 5 is committed, a vessel of the United States (including its gear, furniture, appurtenances, stoves, and cargo), a vessel, vehicle, or aircraft or other means of transportation subject to the jurisdiction of the United States which is used in connection with an act prohibited by section 5, and a gun, trap, net, and other equipment used in connection with such act, shall be subject to forfeiture to the United States.

(2) Upon the forfeiture to the United States of an item described in paragraph (1), or upon the abandonment or waiver of any claim to any such item, it shall be disposed of by the Secretary, or the Secretary of the department in which the Coast Guard is operating, as the case may be, in such a manner, consistent with the purposes of this Act, as may be prescribed by regulation.

(e) APPLICATION OF LAWS.—All provisions of law relating to the seizure, forfeiture, and condemnation of property (including vessels) for violation of the customs laws, the disposition of the property or the proceeds from the sale thereof, and the remission or mitigation of the forfeiture, shall apply to the seizures and forfeitures incurred, or alleged to have been incurred, and the compromise of claims, under the provisions of this Act, insofar as such provisions of law are applicable and not inconsistent with the provisions of this Act; except that all powers, rights, and duties conferred or imposed by the customs laws may, for the purposes of this Act, also be exercised or performed by the Secretary, or the Secretary of the department in which the Coast Guard is operating, or by such officers or employees of the United States as the Secretary or the Secretary of the department in which the Coast Guard is operating may designate.

(f) EMERGENCY POWERS.—Notwithstanding any other provision of this Act, the Secretary or the Secretary of the department in which the Coast Guard is operating, upon receipt of evidence that an activity by a person is presenting, or is threatening to present, an imminent and substantial endangerment to the environment of Antarctica or to the health and safety of persons residing therein, may bring suit on behalf of the United States in the appropriate district court of the United States to immediately restrain that person causing the activity to stop the activity or to take such other action as may be necessary.

(g) INSPECTION FEES.—The Secretary and the Secretary of the department in which the Coast Guard is operating may charge reasonable fees for the expenses of the United States incurred in carrying out inspections and in transferring, boarding, handling, or storing native mammals, native birds, native plants, native invertebrates, animals and plants not indigenous to Antarctica, mineral resources, and other evidentiary items seized or forfeited under this Act.

SEC. 13. IN REM LIABILITY; JURISDICTION OF COURTS.

(a) IN REM LIABILITY.—A vessel of the United States, or a vessel subject to the jurisdiction of the United States, that is operated in violation of the Protocol, this Act, or the regulations issued under this Act is liable in rem for any civil penalty assessed under section 10 or any fine imposed under section 11, and may be proceeded against in any district court of the United States having jurisdiction. The penalty or fine shall constitute a lien on the vessel which may be recovered in an action in rem in the district court of the United States having jurisdiction.

(b) JURISDICTION OF COURTS.—The district courts of the United States shall have jurisdiction over any case or controversy arising under the provisions of this Act or of any regulation or permit issued under this Act.

SEC. 14. MARINE POLLUTION.

(a) REFERENCES.—Whenever in this section an amendment or repeal is expressed in terms of an amendment to or repeal of a section, subsection, or other provision, the reference shall be considered to be made to a section, subsection, or other provision of the Act to Prevent Pollution from Ships (33 U.S.C. 1901 et seq.).

(b) DEFINITIONS.—Section 2(a) (33 U.S.C. 1901(a)) is amended—

(1) in paragraph (8) by striking "and" after the semicolon;

(2) in paragraph (9) by striking the period and inserting "; and"; and

(3) by adding at the end the following:

"(10) 'Antarctica' means the area south of 60 degrees south latitude, including all ice shelves; and

"(11) 'Antarctic Protocol' means the Protocol on Environmental Protection to the Antarctic Treaty, done at Madrid on October 4, 1991, and all annexes thereto.".

(c) APPLICATION OF ANNEX IV.—Section 2 (33 U.S.C. 1901) is further amended by adding at the end the following:

"(c) The requirements of Annex IV to the Antarctic Protocol shall apply in Antarctica—

"(1) to all ships described in section 3(a)(1); and

"(2) to all other ships over which the United States has jurisdiction, including all ships engaged in or supporting United States Antarctic operations.".

(d) APPLICATION IN ANTARCTICA OF ACT TO PREVENT POLLUTION FROM SHIPS.—Section 3 (33 U.S.C. 1902) is amended—

(1) in subsection (a) by striking "and" after the semicolon at the end of paragraph (3), by striking the period at the end of paragraph (4) and inserting "; and", and by adding at the end the following:

"(5) with respect to Annex IV to the Antarctic Protocol, to all ships described in paragraph (1) and to all other ships over which the United States has jurisdiction, including all ships engaged in or supporting United States Antarctic operations."; and

(2) in subsection (b)(2)—

(A) in subparagraph (A) by striking "subparagraph (B)" and inserting "subparagraph (C)";

(B) by redesignating subparagraph (B) as subparagraph (C); and

(C) by inserting after subparagraph (A) the following:

"(B) Notwithstanding any provision of the Antarctic Protocol and subject to subparagraph (C), the requirements of Annex IV to that Protocol shall apply to a ship referred to in paragraph (1)(A) operating in Antarctica.".

(e) ADMINISTRATION.—Section 4(a) (33 U.S.C. 1903(a)) is amended in the first sentence by inserting ", Annex IV to the Antarctic Protocol," after "MARPOL Protocol".

(f) REGULATIONS.—Section 4 (33 U.S.C. 1903) is amended—

(1) in subsection (b)(1) by inserting ", Annex IV to the Antarctic Protocol," after "MARPOL Protocol"; and

(2) by adding at the end of subsection (b) the following:

"(3) The Secretary shall prescribe, within 2 years after the effective date of the Antarctic Environmental Protection Protocol

Act of 1992, regulations to implement Annex IV to the Antarctic Protocol, including regulations to ensure that all ships described in section 3(a)(1) and all other ships over which the United States has jurisdiction have contingency plans for marine pollution incidents in Antarctica.".

(g) RETENTION OF POLLUTION IN ANTARCTICA.—Section 6 (33 U.S.C. 1905) is amended by adding at the end the following:

"(g) The Secretary shall ensure that all ships described in section 3(a)(1) and all other ships over which the United States has jurisdiction, before entering Antarctica—

"(1) have sufficient capacity in accordance with Annex IV to the Antarctic Protocol to retain on board, all oil, noxious liquid substances, and garbage; and

"(2) have concluded arrangements to discharge oil, noxious liquid substances, and garbage at reception facilities outside of Antarctica.".

(h) VIOLATIONS AND ENFORCEMENT.—Section 8 (33 U.S.C. 1907) is amended—

(1) in subsection (a)—

(A) in the first sentence by inserting "Annex IV to the Antarctic Protocol," after "MARPOL Protocol,"; and

(B) by inserting after the second sentence the following: "The Secretary shall cooperate with other parties to the Antarctic Protocol in the detection of violations of Annex IV to that Protocol and in its enforcement.";

(2) in subsection (b)—

(A) in the fourth sentence by inserting "or Annex IV to the Antarctic Protocol as applicable," after "MARPOL Protocol"; and

(B) in the fifth sentence by inserting "or a party to the Antarctic Protocol" after "MARPOL Protocol"; and

(3) in subsection (e)—

(A) by redesignating paragraph (2) as paragraph (3); and

(B) by inserting after paragraph (1) the following:

"(2) The Secretary may inspect at any time a ship described in section 3(a)(1) or any other ship over which the United States has jurisdiction, to verify whether that ship has discharged oil, a noxious liquid substance, garbage, or sewage in violation of Annex IV to the Antarctic Protocol or in violation of any provision of this Act that implements that Protocol.".

(i) PENALTIES.—Section 9 (33 U.S.C. 1908) is amended—

(1) in subsection (a) by inserting "Annex IV to the Antarctic Protocol," after "MARPOL Protocol,";

(2) in subsection (b) by inserting "Annex IV to the Antarctic Protocol," after "MARPOL Protocol," each place it appears;

(3) in subsection (d) by inserting "Annex IV to the Antarctic Protocol," after "MARPOL Protocol,";

(4) in subsection (e) by inserting ", Annex IV to the Antarctic Protocol," after "MARPOL Protocol"; and

(5) in subsection (f) by inserting "or to the Antarctic Protocol" after "MARPOL Protocol" each place it appears.

SEC. 15. RELATION TO EXISTING TREATIES, STATUTES, REGULATIONS, AND PERMITS.

(a) IN GENERAL.—Except as provided in subsection (b) and section 14, nothing in this Act shall be construed as contravening or superseding—

(1) any international treaty, convention, or agreement, if such treaty, convention, or agreement is in force with respect to the United States on the date of enactment of this Act; or

(2) any statute which implements any such treaty, convention, or agreement.

(b) REPEAL OF STATUTES.—The Antarctic Conservation Act of 1978 (16 U.S.C. 2401 et seq.) and the Antarctic Protection Act of 1990 (16 U.S.C. 2461 et seq.) are repealed.

(c) SAVINGS PROVISIONS.—

(1) Nothing in this Act shall affect the authority of the Director—

(A) to support basic research investigations of the Antarctic environment to understand globally important processes; and

(B) to operate, in accordance with this Act, United States facilities, bases, and stations in Antarctica.

(2) All regulations issued under the Antarctic Conservation Act of 1978 (16 U.S.C. 2401 et seq.) shall remain in effect until the Secretary or the Secretary of the department in which the Coast Guard is operating, as the case may be, promulgates new regulations under section 9 or section 14 of this Act, except that if the regulations issued under that Act are inconsistent with the Protocol or have been superseded by the provisions of this Act, the Protocol and this Act shall control.

(3) All permits issued under the Antarctic Conservation Act of 1978 (16 U.S.C. 2401 et seq.) shall remain in effect until they expire in accordance with the terms of those permits.

SEC. 16. AMENDMENTS.

(a) ACCEPTANCE OF CERTAIN AMENDMENTS.—A proposed amendment to the Protocol may be accepted on behalf of the United States by the President following the advice and consent of the Senate, except as provided for in subsection (b).

(b) ACTION ON CERTAIN AMENDMENTS BY PRESIDENT.—A proposed amendment to Annex I, II, III, IV, or V of the Protocol may be the subject of appropriate action on behalf of the United States by the Secretary of State following notification to the Congress.

SEC. 17. SENSE OF CONGRESS.

It is the sense of Congress that—

(1) the prohibition on Antarctic mineral resource activities in Article 7 of the Protocol should remain in effect permanently or indefinitely;

(2) the Secretary of State should promptly enter into negotiations with other parties to the Antarctic Treaty to conclude an agreement on rules and procedures relating to liability for damage arising from activities in Antarctica and covered by the Protocol; and

(3) the Secretary should ensure that the results of all scientific investigations relating to geological processes and structures are made openly available to the public and scientific community.

SECTION-BY-SECTION ANALYSIS OF THE ANTARCTIC ENVIRONMENTAL PROTECTION PROTOCOL ACT OF 1992

SECTION 1—SHORT TITLE

The short title of the bill is the "Antarctic Environmental Protection Protocol Act of 1992".

SECTION 2—FINDINGS AND PURPOSE

This section contains Congress' findings and purpose for the legislation, to enable the United States to enforce the Protocol on Environmental Protection to the Antarctic Treaty (Protocol) in the United States. With this additional authority, the U.S. can ratify the Protocol.

SECTION 3—DEFINITIONS

This section contains the definitions for terms used in the Act, including "Administrator", "Antarctica", "Director", and "Secretary". "Secretary" means the Secretary of Commerce acting through the Administrator of the National Oceanic and Atmospheric Administration (NOAA). "Administrator" means the Administrator of the Environmental Protection Agency (EPA). "Director" means the Director of the National Science Foundation (NSF).

SECTION 4—REPRESENTATIVE, ARBITRATORS, AND INSPECTORS

Section 4 authorizes the Secretary of State to appoint U.S. representatives to the new institutions established by the Protocol, including the Committee for Environmental Protection, the Arbitral Tribunal, and the system of inspectors.

SECTION 5—UNLAWFUL ACTIVITIES

Section 5 establishes what activities are prohibited altogether in Antarctica and what activities are prohibited without a permit. Section 5 makes it unlawful to conduct any activity in Antarctica in a manner inconsistent with the Protocol. This will include the environmental principles in Article 3 of the Protocol. Section 5 also continues the ban, first adopted for the U.S. in P.L. 101–594, on U.S. Citizens conducting any mineral resource activity in Antarctica.

Section 5 expands upon the Protocol's requirements on waste disposal by prohibiting the use of leaded fuel at U.S. facilities and in U.S. vessels and aircraft. It is current NSF practice not to use leaded fuel in Antarctica. Section 5 prohibits any person from transporting passengers by vessel to Antarctica unless the person has an agreement with the owner or operator of the vessel to comply with the marine pollution provisions of Annex IV to the Protocol and the Act to Prevent Pollution from Ships (APPS, 33 U.S.C. 1901 et seq.). This is the best way to ensure that foreign vessels transporting U.S. passengers to Antarctica and under charter to U.S. companies comply with our marine pollution obligations under the Protocol and the International Convention for the Prevention of Pollution from Ships, 1973/1978, or MARPOL.

Section 5(a)(8) provides that certain activities, otherwise prohibited, may be allowed provided a permit is obtained from the Secretary of Commerce. These activities include taking of specially protected species, native mammals, birds, and plants and entering into specially protected areas. If a permit is granted, the activity may proceed. H.R. 5459 separates the permitting function from the function of operating the U.S. Antarctic Program to avoid any conflicts and to ensure full compliance with the Protocol.

Section 5(b) allows an activity under section 5(a)(8) to take place without a permit in extreme emergency circumstances to prevent the loss of human life or involving the safety of a ship or aircraft.

SECTION 6—PERMITS

Section 6 specifies the types of U.S. activities in Antarctica for which a permit is required from the Secretary. These activities include the conduct or support by any person of an expedition by vessel of more than 10 passengers; the annual operation of the U.S. Antarctic Program, including the operation, construction, and decommissioning of facilities; and any activity otherwise requiring a permit under section 5(a)(8).

Section 6 establishes the criteria and procedures for obtaining permits, including the terms and conditions that pertain to specific types of permits. Section 6 also authorizes the Secretary to issue general permits for similar types of activities in Antarctica that will produce only minor or transitory impacts on the Antarcitic environment. This provision can be used for most scientific re-

search activities. No permit, including a general permit, may be issued if the Secretary determines the activity would be inconsistent with the Protocol, including the principles in Article 3.

The permit terms and conditions are consistent with the requirements in the Protocol and its five Annexes with one exception. Taking of native mammals, birds, or plants is not allowed for the purpose of constructing or operating U.S. facilities in Antarctica. This exception was proposed and rejected by the Congress during the passage of the Antarctic Conservation Act of 1978 (16 U.S.C. 2401 et seq.) and is similarly rejected by this bill.

Section 6 authorizes the Secretary to modify, suspend, or revoke a permit if the Secretary determines that changed circumstances make the permitted activity inconsistent with the Protocol, including the principles in Article 3. This provision enables the U.S. to live up to its obligations under Article 3(4) of the Protocol.

SECTION 7—ENVIRONMENTAL ASSESSMENT OF ACTIVITIES WITHIN ANTARCTICA

Section 7 implements Article 8 of the Antractic Protocol and Annex I to the Protocol. These provisions obligate parties to the Protocol to conduct prior environmental inpact assessments of proposed activities in Antarctica, including scientific research programs, tourism, and all other governmental and nongovernmental activities in Antarctica for which advance notice is required under Article VII (5) of the Antarctic Treaty, including associated logistic support activities. The assessment procedures also require parties to categorize their Antarctic activities, according to whether these activities have (1) less than a minor or transitory impact on the Antarctic environment; (2) a minor or transitory impact; or (3) more than a minor or transitory impact.

The United States proposed these EIA procedures based on its experience with the National Environmental Policy Act of 1969 (NEPA, 42 U.S.C. 4321–4347). The types of assessments to be conducted are comparable to the types of assessments required under NEPA. (See State Department transmittal of the Protocol to the President, Senate Treaty Doc. 102–22 at 9.) The Protocol uses the terms "initial environmental evaluation" and "comprehensive environmental evaluation". These terms are analogous to environmental assessments and environmental impact statements prepared under section 102(2)(C) of NEPA. For this reason, the bill uses the phrases from NEPA, which are well-understood terms in NEPA jurisprudence. It should also be noted that NEPA already applies to major federal actions that significantly affect the human environment, including the environment of Antarctica.

Therefore, it is not necessary to add a specific reference to NEPA in section 7. Federal agencies remain obligated to comply with NEPA. To the extent that the Protocol requires procedures that are more specific or more stringent than those in NEPA, the bill authorizes the Council on Environmental Quality (CEQ) to issue regulations to implement those procedures for federal activities in Antarctica. For example, the Protocol requires the preparation of a comprehensive environmental evaluation for any activity having "more than a minor or transitory impact" on the Antarctic environment. The Protocol thus provides the standard for when an environmental impact statement must be prepared for a federal activity in Antarctica.

The Secretary of Commerce, in consultation with the Chairman of CEQ, is to issue regulations establishing procedures for the environmental assessment of nongovernmental activities in Antarctica, in accordance with Annex I to the Protocol. Normally, NEPA only applies to federal activities. But, the Protocol obligates the United States to conduct environmental impact assessments for private activities in Antarctica. Therefore, new regulations are required to implement these obligations for private parties. The Secretary can implement these obligations through the permitting process for activities, including tourist expeditions, that require permits. As with NEPA and current CEQ regulations, private parties may be authorized to prepare their own environmental assessments and, under appropriate federal supervision, may contract with third parties to prepare environmental impact statements.

No decision for which an environmental impact statement is required may proceed until the time periods called for in Annex I to the Protocol and section 7(c) have expired. These procedures put in place public comment and consultative requirements comparable to those already required by NEPA and CEQ regulations. To the extent that these time periods differ from those specified in existing CEQ regulations, additional regulations may be required for U.S. activities in Antarctica.

SECTION 8—MONITORING, INSPECTIONS, PLANS, REPORTS

Section 8 implements additional requirements of the Protocol, including monitoring of ongoing activities (Article 3), inspections (Article 14), contingency plans (Article 15) and reporting incidents of noncompliance (Article 13). The amendment leaves the responsibility for land-based contingency plans with the Secretary and places the responsibility for contingency plans for pollution incidents from vessels with the Coast Guard.

SECTION 9—REGULATIONS

Section 9 authorizes the Secretary, and the Secretary of the department in which the Coast Guard is operating, to promulgate regulations necessary to implement the Act, the Protocol, measures adopted under the Protocol, and any awards issued under the Protocol by the Arbitral Tribunal. The Coast Guard has primary responsibility for Annex IV to the Protocol, marine pollution.

Section 9 identifies specific subjects on which the Secretary must issue regulations to implement the Act and Protocol. These include the designation of protected species; identification of specially protected areas and management plans for those areas; prohibited products (if any, in addition to those specified in the definition section); measures to clean up U.S. bases and facilities; guidelines to distinguish between prohibited mineral resource activities and scientific research; general permits; and actions needed by permittees to comply with the principles in Article 3 of the Protocol.

SECTION 10—CIVIL PENALTIES

Section 10 authorizes the Secretary to assess civil penalties for violations of the Act. The amount of the penalty is not to exceed $25,000 for each violation. The amount is consistent with existing penalty authority in APPS.

SECTION 11—CRIMINAL OFFENSES

Section 11 establishes that knowing violations of the Act are criminal offenses, punishable in accordance with section 3571 of title 18, U.S.C.

SECTION 12—ENFORCEMENT

Section 12 provides authority to the Secretary and the Secretary of the department in which the Coast Guard is operating to enforce the provisions of the Act. The Secretaries may use the personnel, services, and facilities of other departments in enforcing the Act. The enforcement provisions are derived from the Antarctic Conservation Act and the Magnuson Act.

SECTION 13—LIABILITY IN REM; JURISDICTION OF COURTS

Section 13 makes vessels of the U.S. and vessels subject to the jurisdiction of the U.S. liable in rem for violations of the Act and the Protocol. District courts of the U.S. are given exclusive jurisdiction to enforce the Act in the U.S.

SECTION 14—MARINE POLLUTION

New section 14 contains several amendments to APPS. These amendments allow the Coast Guard to enforce the marine pollution provisions in Annex IV of the Antarctic Protocol consistent with marine pollution provisions in MARPOL. Both the Protocol and MARPOL designate Antarctica as a Special Area. No oil, noxious liquid substance, sewage, or garbage may be discharged from a vessel within a Special Area. Food waste may be discharged provided it is 12 nautical miles from the nearest land or ice shelf.

SECTION 15—RELATION TO EXISTING TREATIES, STATUTES, REGULATIONS, AND PERMITS

Section 15 disclaims any intent to supersede any treaty, convention, or international agreement in force for the United States and any implementing legislation for such agreement, except as provided by subsection (b) and section 14. Section 15 repeals the Antarctic Conservation Act of 1978 (16 U.S.C. 2401–2410), and the Antarctic Protection Act of 1990 (16 U.S.C. 2461–2466), which are both replaced by this Act. Section 15 also explicitly preserves the current role of NSF to support basic scientific research in Antarctica and to operate U.S. bases and facilities that support this research.

SECTION 16—AMENDMENTS

Section 16 authorizes the President to accept an amendment to the Protocol only if the Senate has provided advice and consent to its acceptance. However, amendments to an annex to the Protocol may be accepted by the Secretary of State subject to notification to the Congress. Nothing in this provision modifies the constitutional role of the Senate to give advice and consent to treaties.

SECTION 17—SENSE OF CONGRESS

Section 17 contains the Sense of the Congress that: (1) the prohibition on Antarctic mineral resource activities be maintained in place permanently or indefinitely; (2) the Secretary of State should promptly enter into negotiations to conclude a liability agreement, as called for in Article 16 of the Protocol; and (3) the Secretary should ensure that all scientific information on geologic processes and structures be made openly available to the public.

SECTION 18—AUTHORIZATION OF APPROPRIATIONS

Section 18 authorizes $25 million for each of fiscal years 1993, 1994, and 1995 to the Secretary, $5 million for each of these fiscal years to the Coast Guard, and $500,000 for the Secretary of State to implement their respective obligations under the Act.●

By Mr. ROCKEFELLER (for himself and Ms. MIKULSKI):

S. 3190. A bill to amend section 182 of the Trade Act of 1974 to permit the United States to respond to the actions

of countries that do not provide adequate and effective patent protection to U.S. nationals; to the Committee on Finance.

PROTECTION OF INTELLECTUAL PROPERTY RIGHTS ACT

• Mr. ROCKEFELLER. Mr. President, I am introducing a bill today that deals with one of the most important trade issues facing U.S. businesses around the world at the present time—the protection of U.S. intellectual property. The United States has long held to the principle that an inventor has the right to meaningful protection for her invention and that others should not be allowed to steal if from her. Machines, processes, music scores, trademarks, movies, and computer software must all be protected against illegal copying.

The improper use of a company's creativity, its name, and its reputation is theft that can cost the company the many millions of dollars it spent developing a patentable invention or an innovative computer program. If a company cannot sell its product and recoup its research and development costs, the next product will not be researched and developed. The degree to which we protect patents and other intellectual property—and the degree to which we ensure commensurate protection in other countries—goes to the heart of a successful industrial society.

Along with many Senators, I have been concerned for some time about the treatment American companies, especially those in the high-technology area, receive when they apply for patents overseas, especially in Japan. Four years ago, I chaired a hearing in my Foreign Commerce and Tourism Subcommittee in which we looked at the effects of Japan's patent system on American business.

Nine months later, I chaired a second hearing on this issue, and I was disappointed to learn that, in the interim, there had been little progress in resolving the problems examined at our first hearing. American and other foreign companies, especially high-technology industries, still faced daunting problems with the Japanese patent system. This was particularly discouraging because there was significant cooperation between the United States and Japan on intellectual property issues in international fora such as the Uruguay round, the World Intellectual Property Organization, and trilateral discussions with the European Patent Office.

At both hearings, specific difficulties were outlined in detail by witnesses representing the U.S. Government, a cross-section of American industry, and academia. The list of problems was long. Let me give several examples.

It took an average of more than 72 months to obtain a patent in Japan, versus 19 months in the United States. The delay in Japan's patent system was an open invitation to copying and abuse. There were many measures Japan could have taken to reduce this delay in its issuance of patents, including greatly increasing the number of patent examiners, altering the system that allows an applicant to deter examination of his patent for up to 7 years, and working with Japanese industry to eliminate the filing of unnecessary applications and applications of limited value which were clogging the patent system.

Patent claims in Japan were interpreted very narrowly, thereby allowing others to make minor changes in the patented invention and avoid liability for infringing the original patent. As a result, patent flooding by Japanese companies continued. This is a practice whereby Japanese companies file large numbers of applications for improvements on an original invention, making it necessary for the owner of the original to cross-license his technology if he wants to be able to offer his product in the improved manner.

The Japanese Patent Office permitted the use of foreign language terms in patent applications only in extreme situations. In contrast, the United States Patent Office, as well as the European Patent Office, accepts foreign language applications and allows applicants 2 months to submit translations.

This is just a sample of all the problems that concerned us 3 years ago. There was a plethora of other areas where improvements were needed to assure that foreign firms were not disadvantaged by the practices permitted by the Japanese patent system. Many of these were listed in an amendment I introduced in July, 1988, which was passed unanimously by this body. That amendment called on the administration to give this issue higher visibility and to use all possible avenues to persuade the Japanese to correct their patent system.

American industry 3 years ago was very concerned about these problems. At that time, the United States-Japan Business Council formed a joint patent task force. The chairman of the United States side of the task force testified before my subcommittee that when he attempted to establish with his Japanese counterparts certain basic, mutually-agreed principles, his proposal was the subject of public criticism. I quote from his testimony:

"These related to the principle that there should not be interference in patent examination and adjudicative processes by political organs of government and the idea that patent applications should be filed only on inventions made by the applicants and not on inventions copied from others.

It was inconceivable to me that the Japanese members of this task force were unwilling to subscribe to these basic principles of intellectual property protection—that politics should be kept out of the patent office and that patents which are merely copies of other inventions are unacceptable.

The United States-Japan Working Group on Intellectual Property was part of our government-to-government trade dialogue, part of the administration effort called for by the Senate amendment. Given the significant trade implications of the issues at hand, I had hoped that the Japanese representatives would be prepared to negotiate seriously. However, little progress on patent issues was made in 1988 and 1989, and I was very disappointed by this lack of results. Japanese Government officials failed to recognize the critically important trade ramifications of these patent problems.

As a result, several of us in the Senate concluded that this situation could not continue, and we decided that the time had come to take a more aggressive stance toward Japan. In August, 1989, we therefore introduced the Intellectual Property Protection Act of 1989, which proposed to amend section 337 of the Tariff Act of 1930 to respond to the actions of countries like Japan that did not provide adequate and effective patent protection to United States nationals. Section 337 helps American businesses get relief from imports that infringe American patents, copyrights, trademarks, etc. Our bill would have made it more likely that these businesses would obtain protection against the illegal products coming in from countries with the most damaging patent practices.

Although most of us recognized there was a small chance of enacting new trade legislation only a year after the 1988 omnibus bill, we felt in 1989 that it was important to put Japan on notice that the problems American firms faced with the Japanese patent system needed to be addressed.

Well, Mr. President, since my colleagues and I introduced that legislation, the patent process in Japan really hasn't changed much. The Japan Patent Office hires a few more patent examiners each year—they now have about 900 examiners—but with hundreds of thousands of applications per year, the backlog is actually growing. For example, in 1988, the JPO received 339,399 applications (308,908 Japanese applicants) but registered only 55,300 patents; in 1989 it received 351,207 applications (317,566 from Japanese applicants) but registered only 63,301 patents; and in 1990, the last full year for which I have data, the JPO received 367,590 applications (333,230 from Japanese applicants) but issued only 59,401 patents.

The JPO's delay in granting patents, or even examining the applications after they are filed, is almost as bad as it was in 1989. It still takes about 3 years before an application even gets picked up for examination. Then, once an examiner picks up an application, the average time to the granting of a

patent, according to statistics from the Japanese Government, is another 32 months; that is, if there is no opposition. However, as the Japan Patent Office continues to make applications subject to pre-grant opposition, the process is in many cases even slower. Overall, this is only a 4 month reduction from the 72 month average pendency that existed 3 years ago. Some U.S. firms have experienced delays for up to 10 years, or even longer, from the filing date to the grant of the patent.

Furthermore, the term of a patent granted in Japan still runs from the filing date, a practice which, because of the long delays in examination and processing, limits the value of a patent. For example, without an issued patent, a company will have a difficult—or impossible—time negotiating licensing fees, something especially important for manufacturers of pharmaceuticals and microelectronics. For the electronics industry, the situation is especially bad: the delay in examination and processing is longer than the average life of its products. The majority of sales by many U.S. high-technology companies is based on products that didn't exist 6 years, or even 3 years earlier. By the time the JPO begins its examination, or by the time a patent is granted in Japan, the product may no longer have a commercial value.

Great uncertainty for these companies also exists when a competitor has filed a patent application for a similar product or process. The U.S. company may get hit with an infringement lawsuit years later, after it no longer sells the product. Or, vice versa, the U.S. company may not be able to file an infringement suit until the product involved is no longer being sold, and the damage has already been done. Neither company will know for certain whether it is in the right or the wrong. With this type of uncertainty, further technological development is stymied.

One of the major causes of the Japan Patent Office's huge backlog is the unnecessarily narrow interpretations of patent claims it allows. Because of this, Japanese companies still have hundreds of patent engineers cranking out patents that clog the system. Under this system, if United States companies don't have patent engineers and lawyers in Japan, a luxury small United States companies cannot afford, they find it extremely difficult to compete.

Mr. President, I believe it is time to renew legislative efforts in this area. The bill I introduce today is not another "shot across the bow." The time for warnings and patience has passed. With the support of this body and the House of Representatives, which has already passed a similar measure, we can take action now. My bill incorporates a provision offered by Representative DICK SCHULZE that became section 105 of the House-passed trade bill, H.R. 5100.

With standards for adequate and effective foreign patent protection for U.S.companies similar to those in my 1989 bill, the legislation I am introducing today proposes to use the special 301 provisions of the trade law to require USTR to determine which countries do not provide adequate intellectual property protection and to negotiate a satisfactory solution. With special 301's specific mandates and strict timetables, this can be, I believe, a stronger measure than my 1989 bill. I hope all of my colleagues will support this effort.

Mr. President, I ask unanimous consent that the full text of the bill be printed in the RECORD.

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

S. 3190

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 "Protection of Intellectual Property Rights Act of 1992".

SEC. 2. FINDINGS AND PURPOSE.

(A) FINDINGS.—The Congress finds that—

(1) A few countries, including Japan, maintain patent systems that effectively deny adequate and effective patent protection to United States nationals because of—

(A) unreasonable delays in granting or enforcing patents,

(B) pre-grant opposition to patent applications,

(C) unnecessarily narrow interpretations of patent claims by the authorities which determine patent validity and infringement, and

(D) other policies and practices.

(2) The lack of adequate and effective patent protection in these countries denies fair and equitable market access to United States nationals that rely upon intellectual property rights protection.

(b) PURPOSE.—The purpose of this Act is to amend the Trade Act of 1974 to respond to the actions of countries that do not provide adequate and effective patent protection to United States nationals.

SEC. 3. IDENTIFICATION OF FOREIGN COUNTRIES.

Section 182 of the Trade Act of 1974 (19 U.S.C. 2242) is amended—

(1) in subsection (a)(1)—

(A) by striking "or" at the end of subparagraph (A),

(B) by striking "and" at the end of subparagraph (B) and inserting "or", and

(C) by inserting after subparagraph (B) the following new subparagraph:

"(C) deny adequate substantive standards, and";

(2) in subsection (b)(1)(A)—

(A) by striking "or" at the end of clause (i),

(B) by inserting "or" at the end of clause (ii), and

(C) by inserting after clause (ii) the following new clause:

"(iii) deny adequate substantive standards,";

(3) by adding at the end of subsection (d), the following new paragraph:

"(4) A foreign country denies adquate substantive standards if the country enforces or permits procedures under its patent approval system that result in, among other practices—

"(A) patent applications being subject to pre-grant opposition,

"(B) extended deferral (beyond 3 years) of patent examination,

"(C) an inordinately long period of time for patent application approval,

"(D) a patent term of less than 17 years from the date of the grant or less than 20 years from the date of filing,

"(E) an inordinate delay in obtaining judicial review or unavailability of judicial review for patent applications that are denied, or

"(F) unnecessarily narrow interpretations of patent claims by the authorities which determine patent validity and infringement."; and

(4) by adding at the end of subsection (e) the following new sentence: "Such publication shall include information with respect to any act, policy, or practice identified under subsection (a) and information with respect to any action taken (or the reasons for not taking action) to eliminate such act, policy, or practice.".●

By Mr. MOYNIHAN (for himself and Mr. DURENBERGER):

S. 3191. A bill to amend title XIX of the Social Security Act to increase State flexibility to use coordinated care programs and to allow States to contain costs and improve access to, and quality of, coordinated care services under the medicaid program; to the committee on Finance.

MEDICAID COORDINATED CARE IMPROVEMENT ACT OF 1992

● Mr. MOYNIHAN. Mr. President, along with Senator DURENBERGER, I am today introducing the Medicaid Coordinated Care Improvement Act of 1992. This is an amended version of S. 2077 which was introduced on November 26, 1991, and which has undergone substantial modification as a result of meetings and discussions with interested parties over the last 8 months.

Our goal now, as then, is to make it easier for States to enroll their welfare recipients in managed care plans—health maintenance organizations, preferred provider organizations and primary care case management programs. The most important provisions from S. 2077 remain in the new bill—elimination of the so-called 75–25 rule which requires that at least 25 percent of the enrollees in a Medicaid-contracting HMO must be private pay clients, and the provision allowing States to require that Medicaid recipients enroll in a managed care plan to receive services as long as there are at least two plans available in the area from which recipients can choose.

The major changes in the bill reflect the concerns of the public health community. In recent months, my staff has engaged in lengthy discussions with representatives of the community health centers and other public health providers in an effort to work out our differences. The result is a set of changes that guarantees community

health centers an important role in the future development of managed care while at the same time allowing managed care plans to control their reimbursements to these centers.

Let's assume, for instance, that a State decides that all Medicaid recipients in an area must join a managed care plan. If none of these plans subcontracts with a community health center, these centers would in effect be cut out of the Medicaid program. To avoid this circumstance, our bill says that in a mandatory enrollment setting, the State must give community health centers an opportunity to participate, either as subcontractors to one of the existing plans, or, failing that, as a direct contractor. However, the State retains the right to decide how to reimburse the center—on a reasonable cost basis, as at present, or on a prospective basis—with stop-loss protection. So the community health centers are guaranteed a place at the table, but States retain some control over their Medicaid costs.

Our bill contains numerous new provisions designed to strengthen quality assurance and protect recipients. Thus, the Secretary of Health and Human Services is required to promulgate regulations covering the marketing practices and solvency of managed care plans. Further, the contract between the State and the plan must specify how the plan will address certain public health services—immunizations, lead screening, screening and treatment of TB, screening and treatment of sexually transmitted diseases, EPSDT, and others. And if the plan fails to deliver these critical services in a timely manner, the State must arrange for their provision on an out-of-plan basis. In addition, the quality assurance plan must provide for continuous monitoring, using indicators and standards set forth by various professional medical societies or government agencies.

Our bill requires that there be at least two managed care plans in an area before enrollment in managed care can be required—S. 2077 allowed mandatory enrollment in a single plan if that plan included at least two-thirds of the area's physicians. In addition, a provision has been added allowing special needs children—defined as SSI-eligibles, or those eligible for what used to be known as the crippled children's programs—to opt out of managed care in locations where such enrollment is mandatory.

Our most difficult discussions were with the hospitals. Hospital representatives wanted us to set a Federal floor under what managed care plans could reimburse them. Apart from the fact that such a provision would kill the bill—both the States and the managed care industry strongly oppose it—it seemed preferable to allow these payment rates to be worked out in negotiations between the parties, rather than by Government fiat. However, the bill does require that an annual report be made to the Finance Committee and the House Committee on Energy and Commerce assessing the adequacy of these payments, and comparing them to the payments made by the States in the regular fee-for-service system.

Our new bill addresses many of the criticisms levied at S. 2077, while maintaining the thrust of the earlier proposal. In particular, it goes a long way toward integrating community health centers and Medicaid managed care. Obviously, there are still some areas of contention, and not everyone will agree with every change. But I am hopeful that in this new form, the bill will have broad support, and we can take it up and pass it in September.

Mr. President, I ask unanimous consent that the text of the Medicaid Coordinated Care Improvement Act of 1992 be printed in the RECORD at the conclusion of my remarks.

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

S. 3191

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; REFERENCES TO SOCIAL SECURITY ACT.

(a) SHORT TITLE.—This Act may be cited as the "Medicaid Coordinated Care Improvement Act of 1992".

(b) REFERENCES TO SOCIAL SECURITY ACT.—Except as otherwise specifically provided, whenever in this Act an amendment 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 that section or other provision of the Social Security Act.

SEC. 2. MODIFICATION OF FEDERAL REQUIREMENTS TO ALLOW STATES MORE FLEXIBILITY IN CONTRACTING FOR COORDINATED CARE SERVICES UNDER MEDICAID.

(a) IN GENERAL.—

(1) PAYMENT PROVISIONS.—Section 1903(m) (42 U.S.C. 1396b(m)) is amended to read as follows:

"(m)(1) No payment shall be made under this title to a State with respect to expenditures incurred by such State for payment to an entity which is at risk (as defined in section 1931(a)(4)) for services provided by such entity to individuals eligible for medical assistance under the State plan under this title, unless the entity is a risk contracting entity (as defined in section 1931(a)(3)) and the State and such entity comply with the applicable provisions of section 1931.

"(2) No payment shall be made under this title to a State with respect to expenditures incurred by such State for payment for services provided to an individual eligible for medical assistance under the State plan under this title if such payment by the State is contingent upon the individual receiving such services from a specified health care provider or subject to the approval of a specified health care provider, unless the entity receiving payment is a primary care case management entity (as defined in section 1931(a)(2)) and the State and such entity comply with the applicable provisions of section 1931.".

(2) REQUIREMENTS FOR COORDINATED CARE SERVICES.—Title XIX (42 U.S.C. 1396 et seq.) is amended by adding at the end the following new section:

"REQUIREMENTS FOR COORDINATED CARE SERVICES

"SEC. 1931. (a) DEFINITIONS.—For purposes of this title—

"(1) PRIMARY CARE CASE MANAGEMENT PROGRAM.—The term 'primary care case management program' means a program operated by a State agency under which such State agency enters into contracts with primary care case management entities for the provision of health care items and services which are specified in such contracts and the provision of case management services to individuals who are—

"(A) eligible for medical assistance under the State plan,

"(B) enrolled with such primary care case management entities, and

"(C) entitled to receive such specified health care items and services and case management services only as approved and arranged for, or provided, by such entities.

"(2) PRIMARY CARE CASE MANAGEMENT ENTITY.—The term 'primary care case management entity' means a health care provider which—

"(A) must be a physician, group of physicians, a Federally qualified health center, a rural health clinic, or an entity employing or having other arrangements with physicians operating under a contract with a State to provide services under a primary care case management program,

"(B) receives payment on a fee for service basis (or, in the case of a Federally qualified health center or a rural health clinic, on a reasonable cost per encounter basis) for the provision of health care items and services specified in such contract to enrolled individuals,

"(C) receives an additional fixed fee per enrollee for a period specified in such contract for providing case management services (including approving and arranging for the provision of health care items and services specified in such contract on a referral basis) to enrolled individuals, and

"(D) is not an entity that is at risk (as defined in paragraph (4)) for such case management services.

"(3) RISK CONTRACTING ENTITY.—The term 'risk contracting entity' means an entity which has a contract with the State agency (or a health insuring organization described in subsection (n)(2)) under which the entity—

"(A) provides or arranges for the provision of health care items or services which are specified in such contract to individuals eligible for medical assistance under the State plan, and

"(B) is at risk (as defined in paragraph (4)) for part or all of the cost of such items or services furnished to individuals eligible for medical assistance under such plan.

"(4) AT RISK.—The term 'at risk' means an entity which—

"(A) has a contract with the State agency under which such entity is paid a fixed amount for providing or arranging for the provision of health care items or services specified in such contract to an individual eligible for medical assistance under the State plan and enrolled with such entity, regardless of whether such items or services are furnished to such individual, and

"(B) is liable for all or part of the cost of furnishing such items or services, regardless of whether such cost exceeds such fixed payment.

"(5) FEDERALLY QUALIFIED HEALTH CENTER.—The term 'Federally qualified health

center' means a Federally qualified health center as defined in section 1905(l)(2)(B).

"(6) RURAL HEALTH CLINIC.—The term 'rural health clinic' means a rural health clinic as defined in section 1905(l)(1).

"(b) GENERAL REQUIREMENTS FOR RISK CONTRACTING ENTITIES.—

"(1) ORGANIZATION.—A risk contracting entity meets the requirements of this section only if such entity—

"(A)(i) is a qualified health maintenance organization as defined in section 1310(d) of the Public Health Service Act, as determined by the Secretary pursuant to section 1312 of such Act; or

"(ii) is described in subparagraph (C), (D), (E), (F), or (G) of subsection (e)(4);

"(B) is a Federally qualified health center or a rural health clinic which has made adequate provision against the risk of insolvency (pursuant to the guidelines and regulations issued by the Secretary under this section), and ensures that individuals eligible for medical assistance under the State plan are not held liable for such entity's debts in case of such entity's insolvency; or

"(C) is an entity which meets all applicable State licensing requirements and has made adequate provision against the risk of insolvency (pursuant to the guidelines and regulations issued by the Secretary under this section), and ensures that individuals eligible for medical assistance under the State plan are not held liable for such entity's debts in case of such entity's insolvency.

"(2) GUARANTEES OF ENROLLEE ACCESS.—A risk contracting entity meets the requirements of this section only if—

"(A) the geographic locations, hours of operation, patient to staff ratios, and other relevant characteristics of such entity are sufficient to afford individuals eligible for medical assistance under the State plan access to such entities that is at least equivalent to the access to health care providers that would be available to such individuals if such individuals were not enrolled with such entity;

"(B) such entity has reasonable and adequate hours of operation, including 24-hour availability of—

"(i)(I) treatment for an unforeseen illness, injury, or condition of an individual eligible for medical assistance under the State plan and enrolled with such entity; or

"(II) referral to other health care providers for such treatment; and

"(ii) other information, as determined by the Secretary or the State; and

"(C) such entity complies with such other requirements relating to access to care as the Secretary or the State may impose.

"(3) CONTRACT WITH STATE AGENCY.—A risk contracting entity meets the requirements of this section only if such entity has a written contract with the State agency which provides—

"(A) that the entity will comply with all applicable provisions of this section, that the State has the right to penalize the entity for failure to comply with such requirements and to terminate the contract in accordance with subsection (j), and that the entity will be subject to penalties imposed by the Secretary under subsection (i) for failure to comply with such requirements;

"(B) for a payment methodology based on experience rating or another actuarially sound methodology approved by the Secretary, which guarantees (as demonstrated by such models or formulas as the Secretary may approve) that—

"(i) payments to the entity under the contract shall not exceed an amount equal to 100 percent of the costs (which shall include administrative costs and which may include costs for inpatient hospital services that would have been incurred in the absence of such contract) that would have been incurred by the State agency in the absence of the contract; and

"(ii) the financial risk for inpatient hospital services is limited to an extent established by the State;

"(C) that the Secretary and the State (or any person or organization designated by either) shall have the right to audit and inspect any books and records of the entity (and of any subcontractor) that pertain—

"(i) to the ability of the entity (or a subcontractor) to bear the risk of potential financial losses; or

"(ii) to services performed or determinations of amounts payable under the contract;

"(D) that in the entity's enrollment, reenrollment, or disenrollment of individuals eligible for medical assistance under the State plan and eligible to enroll, reenroll, or disenroll with the entity pursuant to the contract, the entity will not discriminate among such individuals on the basis of such individuals' health status or requirements for health care services;

"(E)(i) individuals eligible for medical assistance under the State plan who have enrolled with the entity are permitted to terminate such enrollment without cause as of the beginning of the first calendar month (or in the case of an entity described in subsection (e)(4), as of the beginning of the first enrollment period) following a full calendar month after a request is made for such termination;

"(ii) that when an individual has relocated outside the entity's service area, and the entity has been notified of the relocation, services (within reasonable limits) furnished by a health care provider outside the service area will be reimbursed either by the entity or by the State agency; and

"(iii) for written notification of each such individual's right to terminate enrollment, which shall be provided at the time of such individual's enrollment, and, in the case of a child with special health care needs as defined subsection (e)(1)(B)(ii), at the time the entity identifies such a child;

"(F) in the case of services immediately required to treat an unforeseen illness, injury, or condition, of an individual eligible for medical assistance under the State plan and enrolled with the entity—

"(i) that such services shall not be subject to a preapproval requirement; and

"(ii) where such services are furnished by a health care provider other than the entity, for reimbursement of such provider either by the entity or by the State agency;

"(G) for disclosure of information in accordance with subsection (h) and section 1124;

"(H) that any physician incentive plan operated by the entity meets the requirements of section 1876(i)(8);

"(I) for maintenance of sufficient patient encounter data to identify the physician who delivers services to patients;

"(J) that the entity will comply with the requirement of section 1902(w) with respect to each enrollee;

"(K) that the entity will implement a grievance system, inform enrollees in writing about how to use such grievance system, ensure that grievances are addressed in a timely manner, and report grievances to the State at intervals to be determined by the State;

"(L) that contracts between the entity and each subcontractor of such entity will require each subcontractor—

"(i) to cooperate with the entity in the implementation of its internal quality assurance program under paragraph (4) and adhere to the standards set forth in the quality assurance program, including standards with respect to access to care, facilities in which patients receive care, and availability, maintenance, and review of medical records;

"(ii) to cooperate with the Secretary, the State agency and any contractor to the State in monitoring and evaluating the quality and appropriateness of care provided to enrollees as required by Federal or State laws and regulations; and

"(iii) where applicable, to adhere to regulations and program guidance with respect to reporting requirements under section 1905(r);

"(M) that, where the State deems it necessary to ensure the timely provision to enrollees of the services listed in subsection (f)(2)(C)(ii), the State may arrange for the provision of such services by health care providers other than the entity and may adjust its payments to the entity accordingly;

"(N) that the entity and the State will comply with guidelines and regulations issued by the Secretary with respect to procedures for marketing and information that must be provided to individuals eligible for medical assistance under the State plan;

"(O) that the entity must provide payments to hospitals for inpatient hospital services furnished to infants who have not attained the age of 1 year, and to children who have not attained the age of 6 years and who receive such services in a disproportionate share hospital, in accordance with paragraphs (2) and (3) of section 1902(s);

"(P) that the entity shall report to the State, at such time and in such manner as the State shall require, on the rates paid for hospital services (by type of hospital and type of service) furnished to individuals enrolled with the entity;

"(Q) detailed information regarding the relative responsibilities of the entity and the State, for providing (or arranging for the provision of), and making payment for, the following items and services:

"(i) immunizations;

"(ii) the purchase of vaccines;

"(iii) lead screening and treatment services;

"(iv) screening and treatment for tuberculosis;

"(v) screening and treatment for, and preventive services related to, sexually transmitted diseases, including HIV infection;

"(vi) screening, diagnostic, and treatment services required under section 1905(r);

"(vii) family planning services;

"(viii) services prescribed under—

"(I) an Individual Education Plan or Individualized Family Service Plan under part B or part H of the Individuals with Disabilities Education Act; and

"(II) any other individual plan of care or treatment developed under this title or title V;

"(ix) transportation needed to obtain services to which the enrollee is entitled under the State plan or pursuant to an individual plan of care or treatment described in subclauses (I) and (II) of clause (viii); and

"(x) such other services as the Secretary may specify;

"(R) detailed information regarding the procedures for coordinating the relative responsibilities of the entity and the State to ensure prompt delivery of, compliance with any applicable reporting requirements relat-

ed to, and appropriate recordkeeping with respect to, the items and services described in subparagraph (Q); and

"(S) such other provisions as the Secretary may require.

"(4) INTERNAL QUALITY ASSURANCE.—A risk contracting entity meets the requirements of this section only if such entity has in effect a written internal quality assurance program which includes a systematic process to achieve specified and measurable goals and objectives for access to, and quality of, care, which—

"(A) identifies the organizational units responsible for performing specific quality assurance functions, and ensures that such units are accountable to the governing body of the entity and that such units have adequate supervision, staff, and other necessary resources to perform these functions effectively,

"(B) if any quality assurance functions are delegated to other entities, ensures that the risk contracting entity remains accountable for all quality assurance functions and has mechanisms to ensure that all quality assurance activities are carried out,

"(C) includes methods to ensure that physicians and other health care professionals under contract with the entity are licensed or certified as required by State law, or are otherwise qualified to perform the services such physicians and other professionals provide, and that these qualifications are ensured through appropriate credentialing and recredentialing procedures,

"(D) provides for continuous monitoring of the delivery of health care, through—

"(i) identification of clinical areas to be monitored, including immunizations, prenatal care, services required under section 1905(r), and other appropriate clinical areas, to reflect care provided to enrollees eligible for medical assistance under the State plan,

"(ii) use of quality indicators and standards for assessing the quality and appropriateness of care delivered, and the availability and accessibility of all services for which the entity is responsible under such entity's contract with the State,

"(iii) use of epidemiological data or chart review, as appropriate, and patterns of care overall,

"(iv) patient surveys, spot checks, or other appropriate methods to determine whether—

"(I) enrollees are able to obtain timely appointments with primary care providers and specialists, and

"(II) enrollees are otherwise guaranteed access and care as provided under paragraph (2),

"(v) provision of written information to health care providers and other personnel on the outcomes, quality, availability, accessibility, and appropriateness of care, and

"(vi) implementation of corrective actions,

"(E) includes standards for timely enrollee access to information and care which at a minimum shall incorporate standards used by the State or professional or accreditation bodies for facilities furnishing perinatal and neonatology care and other forms of specialized medical and surgical care,

"(F) includes standards for the facilities in which patients receive care,

"(G) includes standards for managing and treating medical conditions prevalent among such entity's enrollees eligible for medical assistance under the State plan,

"(H) includes mechanisms to ensure that enrollees eligible for medical assistance under the State plan receive services for which the entity is responsible under the contract which are consistent with standards established by the applicable professional societies or government agencies,

"(I) includes standards for the availability, maintenance, and review of medical records consistent with generally accepted medical practice,

"(J) provides for dissemination of quality assurance procedures to health care providers under contract with the entity, and

"(K) meets any other requirements prescribed by the Secretary or the State.

"(c) GENERAL REQUIREMENTS FOR PRIMARY CARE CASE MANAGEMENT PROGRAMS.—A primary care case management program implemented by a State under this section shall—

"(1) provide that each primary care case management entity participating in such program has a written contract with the State agency,

"(2) include methods for selection and monitoring of participating primary care case management entities to ensure—

"(A) that the geographic locations, hours of operation, patient to staff ratio, and other relevant characteristics of such entities are sufficient to afford individuals eligible for medical assistance under the State plan access to such entities that is at least equivalent to the access to health care providers that would be available to such individuals if such individuals were not enrolled with such entity,

"(B) that such entities and their professional personnel are licensed as required by State law and qualified to provide case management services, through methods such as ongoing monitoring of compliance with applicable requirements and providing information and technical assistance, and

"(C) that such entities—

"(i) provide timely and appropriate primary care to such enrollees consistent with standards established by applicable professional societies or governmental agencies, or such other standards prescribed by the Secretary or the State, and

"(ii) where other items and services are determined to be medically necessary, give timely approval of such items and services and referral to appropriate health care providers,

"(3) provide that no preapproval shall be required for emergency health care items or services, and

"(4) permit individuals eligible for medical assistance under the State plan who have enrolled with a primary care case management entity to terminate such enrollment without cause not later than the beginning of the first calendar month following a full calendar month after the request is made for such termination.

"(d) EXEMPTIONS FROM STATE PLAN REQUIREMENTS.—A State plan may permit or require an individual eligible for medical assistance under such plan to enroll with a risk contracting entity or a primary care case management entity without regard to the requirements of set forth in the following paragraphs of section 1902(a):

"(1) Paragraph (1) (concerning statewideness).

"(2) Paragraph (10)(B) (concerning comparability of benefits), to the extent benefits not included in the State plan are provided.

"(3) Paragraph (23) (concerning freedom of choice of provider), except with respect to services described in section 1905(a)(4)(C) and except as required under subsection (e).

"(e) STATE OPTIONS WITH RESPECT TO ENROLLMENT AND DISENROLLMENT.—

"(1) MANDATORY ENROLLMENT.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), a State plan may require an individual eligible for medical assistance under such plan to enroll with a risk contracting entity or a primary care case management entity only if the individual is permitted a choice within a reasonable service area (as defined by the State)—

"(i) between or among 2 or more risk contracting entities,

"(ii) among a risk contracting entity and a primary care case management program, or

"(iii) among primary care case management entities.

"(B) SPECIAL NEEDS CHILDREN.—

"(i) IN GENERAL.—A State may not require a child with special health care needs (as defined in clause (ii)) to enroll with a risk contracting entity or a primary care case management entity.

"(ii) DEFINITION.—For purposes of this subparagraph, the term 'child with special health care needs' refers to an individual eligible for supplemental security income under title XVI, a child described under section 501(a)(1)(D), or a child described in section 1902(e)(3).

"(2) REENROLLMENT OF INDIVIDUALS WHO REGAIN ELIGIBILITY.—In the case of an individual who—

"(A) in a month is eligible for medical assistance under the State plan and enrolled with a risk contracting entity with a contract under this section,

"(B) in the next month (or next 2 months) is not eligible for such medical assistance, but

"(C) in the succeeding month is again eligible for such benefits,

the State agency (subject to subsection (b)(3)(E)) may enroll the individual for that succeeding month with such entity, if the entity continues to have a contract with the State agency under this subsection.

"(3) DISENROLLMENT.—

"(A) RESTRICTIONS ON DISENROLLMENT WITHOUT CAUSE.—Except as provided in subparagraph (C), a State plan may restrict the period in which individuals enrolled with risk contracting entities described in paragraph (4) may terminate such enrollment without cause to the first month of each period of enrollment (as defined in subparagraph (B)), but only if the State provides notification, at least once during each such enrollment period, to individuals enrolled with such entity of the right to terminate such enrollment and the restriction on the exercise of this right. Such restriction shall not apply to requests for termination of enrollment for cause.

"(B) PERIOD OF ENROLLMENT.—For purposes of this paragraph, the term 'period of enrollment' means—

"(i) a period not to exceed 6 months in duration, or

"(ii) a period not to exceed 1 year in duration, in the case of a State that, on the effective date of this paragraph, had in effect a waiver under section 1115 of requirements under this title under which the State could establish a 1-year minimum period of enrollment with risk contracting entities.

"(C) SPECIAL NEEDS CHILDREN.—A State may not restrict disenrollment of a child with special health care needs (as defined in paragraph (1)(B)(ii)).

"(4) ENTITIES ELIGIBLE FOR DISENROLLMENT RESTRICTIONS.—A risk contracting entity described in this paragraph is—

"(A) a qualified health maintenance organization as defined in section 1310(d) of the Public Health Service Act,

"(B) an eligible organization with a contract under section 1876,

"(C) an entity that is receiving (and has received during the previous 2 years) a grant of at least $100,000 under section 329(d)(1)(A) or 330(d)(1) of the Public Health Service Act,

"(D) an entity that—

"(i) received a grant of at least $100,000 under section 329(d)(1)(A) or section 330(d)(1) of the Public Health Service Act in the fiscal year ending June 30, 1976, and has been a grantee under either such section for all periods after that date, and

"(ii) provides to its enrollees, on a prepaid capitation or other risk basis, all of the services described in paragraphs (1), (2), (3), (4)(C), and (5) of section 1905(a) (and the services described in section 1905(a)(7), to the extent required by section 1902(a)(10)(D)),

"(E) an entity that is receiving (and has received during the previous 2 years) at least $100,000 (by grant, subgrant, or subcontract) under the Appalachian Regional Development Act of 1965,

"(F) a nonprofit primary health care entity located in a rural area (as defined by the Appalachian Regional Commission)—

"(i) which received in the fiscal year ending June 30, 1976, at least $100,000 (by grant, subgrant, or subcontract) under the Appalachian Regional Development Act of 1965, and

"(ii) which, for all periods after such date, either has been the recipient of a grant, subgrant, or subcontract under such Act or has provided services on a prepaid capitation or other risk basis under a contract with the State agency initially entered into during a year in which the entity was the recipient of such a grant, subgrant, or subcontract,

"(G) an entity that had contracted with the State agency prior to 1970 for the provision, on a prepaid risk basis, of services (which did not include inpatient hospital services) to individuals eligible for medical assistance under the State plan,

"(H) a program pursuant to an undertaking described in subsection (n)(3) in which at least 25 percent of the membership enrolled on a prepaid basis are individuals who—

"(i) are not insured for benefits under part B of title XVIII or eligible for medical assistance under the State plan, and

"(ii) (in the case of such individuals whose prepayments are made in whole or in part by any government entity) had the opportunity at the time of enrollment in the program to elect other coverage of health care costs that would have been paid in whole or in part by any governmental entity,

"(I) an entity that, on the date of enactment of this provision, had a contract with the State agency under a waiver under section 1115 or 1915(b) and was not subject to a requirement under this title to permit disenrollment without cause, or

"(J) an entity that has a contract with the State agency under a waiver under section 1915(b)(5).

"(f) STATE MONITORING AND EXTERNAL REVIEW.—

"(1) STATE GRIEVANCE PROCEDURE.—A State contracting with a risk contracting entity or a primary care case management entity under this section shall provide for a grievance procedure for enrollees of such entity with at least the following elements:

"(A) a toll-free telephone number for enrollee questions and grievances,

"(B) periodic notification of enrollees of their rights with respect to such entity or program,

"(C) periodic sample reviews of grievances registered with such entity or program or with the State, and

"(D) periodic survey and analysis of enrollee satisfaction with such entity or program, including interviews with individuals who disenroll from the entity or program.

"(2) STATE MONITORING OF QUALITY AND ACCESS.—

"(A) RISK CONTRACTING ENTITIES.—A State contracting with a risk contracting entity under this section shall provide for ongoing monitoring of such entity's compliance with the requirements of subsection (b), including compliance with the requirements of such entity's contract under subsection (b)(3), and shall undertake appropriate followup activities to ensure that any problems identified are rectified and that compliance with the requirements of subsection (b) and the requirements of the contract under subsection (b)(3) is maintained.

"(B) PRIMARY CARE CASE MANAGEMENT ENTITIES.—A State electing to implement a primary care case management program shall provide for ongoing monitoring of the program's compliance with the requirements of subsection (c) and shall undertake appropriate followup activities to ensure that any problems identified are rectified and that compliance with subsection (c) is maintained.

"(C) SERVICES.—

"(i) IN GENERAL.—The State shall establish procedures (in addition to those required under subparagraphs (A) and (B)) to ensure that the services listed in clause (ii) are available in a timely manner to an individual enrolled with a risk contracting entity or a primary care case management entity. Where necessary to ensure the timely provision of such services, the State shall arrange for the provision of such services by health care providers other than the risk contracting entity or the primary care case management entity in which an individual is enrolled.

"(ii) SERVICES LISTED.—The services listed in this clause are:

"(I) prenatal care;

"(II) immunizations;

"(III) lead screening and treatment;

"(IV) prevention, diagnosis and treatment of tuberculosis, sexually transmitted diseases (including HIV infection), and other communicable diseases; and

"(V) such other services as the Secretary may specify.

"(iii) REPORT.—The procedures referred to in clause (i) shall be described in an annual report to the Secretary provided by the State.

"(3) EXTERNAL INDEPENDENT REVIEW.—

"(A) IN GENERAL.—Except as provided in paragraph (4), a State contracting with a risk contracting entity under this section shall provide for an annual external independent review of the quality and timeliness of, and access to, the items and services specified in such entity's contract with the State agency. Such review shall be conducted by a utilization control and peer review organization with a contract under section 1153 or another organization unaffiliated with the State government or with any risk contracting entity and approved by the Secretary.

"(B) CONTENTS OF REVIEW.—An external independent review conducted under this paragraph shall include the following:

"(i) a review of the entity's medical care, through sampling of medical records or other appropriate methods, for indications of quality of care and inappropriate utilization (including overutilization) and treatment,

"(ii) a review of enrollee inpatient and ambulatory data, through sampling of medical records or other appropriate methods, to determine trends in quality and appropriateness of care,

"(iii) notification of the entity and the State when the review under this paragraph indicates inappropriate care, treatment, or utilization of services (including overutilization), and

"(iv) other activities as prescribed by the Secretary or the State.

"(C) AVAILABILITY.—The results of each external independent review conducted under this paragraph shall be available to the public consistent with the requirements for disclosure of information contained in section 1160.

"(4) DEEMED COMPLIANCE WITH EXTERNAL INDEPENDENT QUALITY OF CARE REVIEW REQUIREMENTS.—

"(A) IN GENERAL.—The Secretary may deem the State to have fulfilled the requirement for independent external review of quality of care with respect to an entity which has been accredited by an organization described in subparagraph (B) and approved by the Secretary.

"(B) ACCREDITING ORGANIZATION.—An accrediting organization described in this subparagraph must—

"(i) exist for the primary purpose of accrediting coordinated care organizations;

"(ii) be governed by a group of individuals representing health care providers, purchasers, regulators, and consumers (a minority of which shall be representatives of health care providers);

"(iii) have substantial experience in accrediting coordinated care organizations, including an organization's internal quality assurance program;

"(iv) be independent of health care providers or associations of health care providers;

"(v) be a nonprofit organization; and

"(vi) have an accreditation process which meets requirements specified by the Secretary.

"(5) FEDERAL MONITORING RESPONSIBILITIES.—The Secretary shall review the external independent reviews conducted pursuant to paragraph (3) and shall monitor the effectiveness of the State's monitoring and followup activities required under subparagraph (A) of paragraph (2). If the Secretary determines that a State's monitoring and followup activities are not adequate to ensure that the requirements of paragraph (2) are met, the Secretary shall undertake appropriate followup activities to ensure that the State improves its monitoring and followup activities.

"(g) PARTICIPATION OF FEDERALLY QUALIFIED HEALTH CENTERS AND RURAL HEALTH CLINICS.—

"(1) DEFINITION.—For purposes of this subsection, the term 'center' means a Federally qualified health center (except such centers that would not meet the definition of a Federally qualified health center but for a waiver granted by the Secretary) or a rural health clinic.

"(2) IN GENERAL.—The State agency shall enter into a contract for the provision of health care services in accordance with this section with any center offering to enter into such a contract if such center—

"(A) is located in a service area in which individuals who are eligible for medical assistance under the State plan are required to enroll with a risk contracting entity or a primary care case management entity,

"(B) has failed, after making a good faith effort to do so, to enter into a contract with a risk contracting entity to provide health care services to enrollees of such entity, and

"(C) meets all applicable requirements of this section and other State and Federal laws and regulations under the payment op-

tion elected by the State agency pursuant to paragraph (3).

"(3) PROVIDER ARRANGEMENT; PAYMENT METHOD.—

"(A) STATE OPTION TO SELECT PROVIDER ARRANGEMENT.—The State agency may choose whether to contract with a center described in paragraph (2) as a primary care case management entity or as a risk contracting entity.

"(B) PAYMENT AS PRIMARY CARE CASE MANAGEMENT ENTITY.—The State agency shall pay a center described in paragraph (2) providing or arranging for the provision of services to enrollees as a primary care case management entity—

"(i) a fixed fee per enrollee for a specified period under a contract to provide case management services (which shall be paid as a separate fee or included by the State as a cost when determining amounts payable under section 1902(a)(13)(E)), and

"(ii) amounts determined pursuant to section 1902(a)(13)(E) with respect to services provided under its primary care contract.

"(C) PAYMENT AS RISK CONTRACTING ENTITY.—Subject to subparagraph (D), the State agency shall pay a center described in paragraph (2) providing services to enrollees as a risk contracting entity—

"(i) an amount per enrollee per month, determined annually on a prospective basis, estimated to be sufficient to provide in the aggregate the same amount that would have been paid to the center pursuant to section 1902(a)(13)(E),

"(ii) once during each fiscal year, if requested by the center and determined necessary by the State, an amount necessary to adjust the prospective payment levels determined under clause (i) to take into account changes in patient mix or patient care intensity, and

"(iii) after the end of each fiscal year, an additional amount, with respect to services provided under the risk contract, equal to the amount, if any, by which the aggregate amount that would (but for the risk contract) have been payable for such services under such section 1902(a)(13)(E) exceeds 110 percent of the aggregate payments to the center under such contract.

"(D) ITEMS COVERED BY RISK CONTRACT.—The payment rate or amount determined pursuant to subparagraph (C) shall cover all services which are covered by the State plan customarily provided by centers (as appropriate in the individual case), except that—

"(i) inpatient hospital services shall not be included except by agreement of the State agency and the center, and

"(ii) services described in paragraphs (1) and (3) of section 1861(aa) or that are ambulatory services under the State plan or under section 1905(r), may be included at State option unless the center satisfies the State agency that it is unable to provide such services.

"(h) TRANSACTIONS WITH PARTIES IN INTEREST.—

"(1) IN GENERAL.—Each risk contracting entity which is not a qualified health maintenance organization (as defined in section 1310(d) of the Public Health Service Act) must report to the State and, upon request, to the Secretary, the Inspector General of the Department of Health and Human Services, and the Comptroller General of the United States a description of transactions between the entity and a party in interest (as defined in section 1318(b) of such Act), including the following transactions:

"(A) Any sale or exchange, or leasing of any property between the entity and such a party.

"(B) Any furnishing for consideration of goods, services (including management services), or facilities between the entity and such a party, but not including salaries paid to employees for services provided in the normal course of their employment.

"(C) Any lending of money or other extension of credit between the entity and such a party.

The State or the Secretary may require that information reported with respect to a risk contracting entity which controls, or is controlled by, or is under common control with, another entity be in the form of a consolidated financial statement for the risk contracting entity and such entity.

"(2) AVAILABILITY OF INFORMATION.—Each risk contracting entity shall make the information reported pursuant to paragraph (1) available to its enrollees upon reasonable request.

"(i) REMEDIES FOR FAILURE TO COMPLY.—

"(1) IN GENERAL.—If the Secretary determines that a risk contracting entity or a primary care case management entity—

"(A) fails substantially to provide services required under section 1905(r), when such an entity is required to do so, or provide medically necessary items and services that are required to be provided to an individual enrolled with such an entity, if the failure has adversely affected (or has substantial likelihood of adversely affecting) the individual;

"(B) imposes premiums on individuals enrolled with such an entity in excess of the premiums permitted under this title;

"(C) acts to discriminate among individuals in violation of the provision of subsection (b)(3)(D), including expulsion or refusal to reenroll an individual or engaging in any practice that would reasonably be expected to have the effect of denying or discouraging enrollment (except as permitted by this section) by eligible individuals with the entity whose medical condition or history indicates a need for substantial future medical services;

"(D) misrepresents or falsifies information that is furnished—

"(i) to the Secretary or the State under this section; or

"(ii) to an individual or to any other entity under this section; or

"(E) fails to comply with the requirements of section 1876(i)(8),

the Secretary may provide, in addition to any other remedies available under law, for any of the remedies described in paragraph (2).

"(2) ADDITIONAL REMEDIES.—The remedies described in this paragraph are—

"(A) civil money penalties of not more than $25,000 for each determination under paragraph (1), or, with respect to a determination under subparagraph (C) or (D)(i) of such paragraph, of not more than $100,000 for each such determination, plus, with respect to a determination under paragraph (1)(B), double the excess amount charged in violation of such paragraph (and the excess amount charged shall be deducted from the penalty and returned to the individual concerned), and plus, with respect to a determination under paragraph (1)(C), $15,000 for each individual not enrolled as a result of a practice described in such paragraph, or

"(B) denial of payment to the State for medical assistance furnished by a risk contracting entity or a primary care case management entity under this section for individuals enrolled after the date the Secretary notifies the entity of a determination under paragraph (1) and until the Secretary is satisfied that the basis for such determination has been corrected and is not likely to recur.

The provisions of section 1128A (other than subsections (a) and (b)) shall apply to a civil money penalty under subparagraph (A) in the same manner as such provisions apply to a penalty or proceeding under section 1128A(a).

"(j) TERMINATION OF CONTRACT BY STATE.—Any State which has a contract with a risk contracting entity or a primary care case management entity may terminate such contract if such entity fails to comply with the terms of such contract or any applicable provision of this section.

"(k) FAIR HEARING.—Nothing in this section shall affect the rights of an individual eligible to receive medical assistance under the State plan to obtain a fair hearing under section 1902(a)(3) or under applicable State law.

"(l) DISPROPORTIONATE SHARE HOSPITALS.—Nothing in this section shall affect any requirement on a State to comply with section 1923.

"(m) REFERRAL PAYMENTS.—For 1 year following the date on which individuals eligible for medical assistance under the State plan in a service area are required to enroll with a risk contracting entity or a primary care case management entity, Federally qualified health centers and rural health centers located in such service area or providing care to such enrollees, shall receive a fee for educating such enrollees about the availability of services from the risk contracting entity or primary care case management entity with which such enrollees are enrolled.

"(n) SPECIAL RULES.—

"(1) NONAPPLICABILITY OF CERTAIN PROVISIONS TO CERTAIN RISK CONTRACTING ENTITIES.—In the case of any risk contracting entity which—

"(A)(i) is an individual physician or a physician group practice of less than 50 physicians, and

"(ii) is not described in paragraphs (A) and (B) of subsection (b)(1), and

"(B) is at risk only for the health care items and services directly provided by such entity,

paragraphs (3)(K), (3)(L), (3)(O), (3)(P), and (4) of subsection (b), and paragraph (3) of subsection (f), shall not apply to such entity.

"(2) EXCEPTION FROM DEFINITION OF RISK CONTRACTING ENTITY.—For purposes of this section, the term 'risk contracting entity' shall not include a health insuring organization which was used by a State before April 1, 1986, to administer a portion of the State plan of such State on a statewide basis.

"(3) NEW JERSEY.—The rules under section 1903(m)(6) as in effect on the day before the effective date of this section shall apply in the case of an undertaking by the State of New Jersey (as described in such section 1903(m)(6)).

"(o) CONTINUATION OF CERTAIN COORDINATED CARE PROGRAMS.—The Secretary may provide for the continuation of any coordinated care program operating under section 1115 or 1915 without requiring compliance with any provision of this section which conflicts with the continuation of such program and without requiring any additional waivers under such sections 1115 and 1915 if the program has been successful in assuring quality and containing costs (as determined by the Secretary) and is likely to continue to be successful in the future.

"(p) GUIDELINES, REGULATIONS, AND MODEL CONTRACT.—

"(1) GUIDELINES AND REGULATIONS ON SOLVENCY.—At the earliest practicable time

after the date of enactment of this section, the Secretary shall issue guidelines and regulations concerning solvency standards for risk contracting entities and subcontractors of such risk contracting entities. Such guidelines and regulations shall take into account characteristics that may differ among risk contracting entities including whether such an entity is at risk for inpatient hospital services.

"(2) GUIDELINES AND REGULATIONS ON MARKETING.—At the earliest practicable time after the date of enactment of this section, the Secretary shall issue guidelines and regulations concerning—

"(A) marketing undertaken by any risk contracting entity or any primary care case management program to individuals eligible for medical assistance under the State plan, and

"(B) information that must be provided by States or any such entity to individuals eligible for medical assistance under the State plan with respect to—

"(i) the options and rights of such individuals to enroll with, and disenroll from, any such entity, as provided in this section, and

"(ii) the availability of services from any such entity (including a list of services for which such entity is responsible or must approve and information on how to obtain services for which such entity is not responsible).

In developing the guidelines and regulations under this paragraph, the Secretary shall address the special circumstances of children with special health care needs (as defined in subsection (e)(1)(B)(ii)) and other individuals with special health care needs.

"(3) MODEL CONTRACT.—The Secretary shall develop a model contract to reflect the requirements of subsection (b)(3) and such other requirements as the Secretary determines appropriate."

(b) WAIVERS FROM REQUIREMENTS ON COORDINATED CARE PROGRAMS.—Section 1915(b) (42 U.S.C. 1396n) is amended—

(1) in the matter preceding paragraph (1), by striking "as may be necessary" and inserting ", and section 1931 as may be necessary";

(2) in paragraph (1), by striking "a primary care case management system or";

(3) by striking "and" at the end of paragraph (3);

(4) by striking the period at the end of paragraph (4) and inserting ", and"; and

(5) by inserting after paragraph (4) the following new paragraph:

"(5) to permit a risk contracting entity (as defined in section 1931(a)(3)) to restrict the period in which individuals enrolled with such entity may terminate such enrollment without cause in accordance with section 1931(e)(3)(A).".

(c) STATE OPTION TO GUARANTEE MEDICAID ELIGIBILITY.—Section 1902(e)(2) (42 U.S.C. 1396a(e)(2)) is amended—

(1) in subparagraph (A), by striking all that precedes "(but for this paragraph)" and inserting "In the case of an individual who is enrolled—

"(i) with a qualified health maintenance organization (as defined in title XIII of the Public Health Service Act) or with a risk contracting entity (as defined in section 1931(a)(3)), or

"(ii) with any risk contracting entity (as defined in section 1931(a)(3)) in a State that, on the effective date of this provision, had in effect a waiver under section 1115 of requirements under this title under which the State could extend eligibility for medical assistance for enrollees of such entity, or

"(iii) with an eligible organization with a contract under section 1876,

and who would",

(2) in subparagraph (B), by striking "organization or" each place it appears, and

(3) by adding at the end the following new subparagraph:

"(C) The State plan may provide, notwithstanding any other provision of this title, that an individual shall be deemed to continue to be eligible for benefits under this title until the end of the month following the month in which such individual would (but for this paragraph) lose such eligibility because of excess income and resources, if the individual is enrolled with a risk contracting entity or primary care case management entity (as those terms are defined in section 1931(a)).".

(d) ENHANCED MATCH RELATED TO QUALITY REVIEW.—Section 1903(a)(3)(C) (42 U.S.C. 1396b(a)(3)(C)) is amended—

(1) by striking "organization or by" and inserting "organization, by"; and

(2) by striking "section 1152, as determined by the Secretary," and inserting "section 1152, as determined by the Secretary, or by another organization approved by the Secretary which is unaffiliated with the State government or with any risk contracting entity (as defined in section 1931(a)(3)),".

(e) ACCUMULATION OF RESERVES BY CERTAIN ENTITIES—Any organization referred to in section 329, 330, or 340, of the Public Health Service Act which has contracted with a State agency as a risk contracting entity under section 1931(g)(3)(A) of the Social Security Act may accumulate reserves with respect to payments made to such organization under section 1931(g)(3)(C) of such Act.

(f) CONFORMING AMENDMENTS.—

(1) Section 1128(b)(6)(C)(i) (42 U.S.C. 1320a-7(b)(6)(C)(i)) is amended by striking "health maintenance organization" and inserting "risk contracting entity".

(2) Section 1902(a)(23) (42 U.S.C. 1396a(a)(23)) is amended by striking "primary care-case management system (described in section 1915(b)(1)), a health maintenance organization," and inserting "primary care case management program (as defined in section 1931(a)(1)), a risk contracting entity (as defined in section 1931(a)(3)),".

(3) Section 1902(a)(30)(C) (42 U.S.C. 1396a(a)(30)(C)) is amended by striking "use a utilization" and all that follows through "with the results" and inserting "provide for independent review and quality assurance of entities with contracts under section 1931, in accordance with subsection (f) of such section 1931, with the results".

(4) Section 1902(a)(57) (42 U.S.C. 1396a(a)(57)) is amended by striking "or health maintenance organization (as defined in section 1903(m)(1)(A))" and inserting "risk contracting entity, or primary care case management entity (as defined in section 1931(a))".

(5) Section 1902(a) (42 U.S.C. 1396a) is amended—

(A) by striking the period at the end of paragraph (58) the first place it appears and inserting a semicolon,

(B) by redesignating paragraph (58) the second place it appears as paragraph (59),

(C) in such paragraph (59), as so redesignated—

(i) by striking "subsection (v)" and inserting "subsection (x)", and

(ii) by striking the period at the end and inserting a semicolon, and

(D) by adding at the end the following new paragraphs:

"(60) at State option, provide for a primary care case management program in accordance with section 1931; and

"(61) at State option, provide for a program under which the State contracts with risk contracting entities in accordance with section 1931.".

(6) Section 1902(p)(2) (42 U.S.C. 1396a(p)(2)) is amended by striking "health maintenance organization (as defined in section 1903(m))" and inserting "risk contracting entity (as defined in section 1931(a)(3))".

(7) Section 1902(w) (42 U.S.C. 1396a(w)) is amended—

(A) in paragraph (1), by striking "section 1903(m)(1)(A)" and inserting "section 1931(a)(3)", and

(B) in paragraph (2)(E)—

(i) by striking "health maintenance organization" and inserting "risk contracting entity", and

(ii) by striking "organization" and inserting "entity".

(8) Section 1903(k) (42 U.S.C. 1396b(k)) is amended by striking "health maintenance organization which meets the requirements of subsection (m) of this section" and inserting "risk contracting entity which meets the requirements of section 1931".

(9) Section 1903(w)(7)(A)(viii) (42 U.S.C. 1396b(w)(7)(A)(viii)) is amended by striking "health maintenance organizations (and other organizations with contracts under section 1903(m))" and inserting "risk contracting entities with contracts under section 1931".

(10) Section 1905(a) (42 U.S.C. 1396d(a)) is amended, in the matter preceding clause (i), by inserting "(which may be on a prepaid capitation or other risk basis)" after "payment".

(11) Section 1916(b)(2)(D) (42 U.S.C. 1396o(b)(2)(D)) is amended by striking "health maintenance organization (as defined in section 1903(m))" and inserting "risk contracting entity (as defined in section 1931(a)(3))".

(12) Section 1925(b)(4)(D)(iv) (42 U.S.C. 1396r-6(b)(4)(D)(iv)) is amended—

(A) in the heading, by striking "**HMO**" and inserting "**RISK CONTRACTING ENTITY**",

(B) by striking "health maintenance organization (as defined in section 1903(m)(1)(A))" and inserting "risk contracting entity (as defined in section 1931(a)(3)", and

(C) by striking "health maintenance organization in accordance with section 1903(m)" and inserting "risk contracting entity in accordance with section 1931".

(13) Paragraphs (1) and (2) of section 1926(a) (42 U.S.C. 1396r-7(a)) are each amended by striking "health maintenance organizations under section 1903(m)" and inserting "risk contracting entities under section 1931".

(13) Section 1927(j)(1) is amended by striking "* * * Health Maintenance Organizations, including those organizations that contract under section 1903(m)" and inserting "risk contracting entities (as defined in section 1931(a)(3))".

(d) EFFECTIVE DATE.—The amendments made by this section shall become effective with respect to calendar quarters beginning on or after January 1, 1993.

SEC. 3. CERTAIN IMPROVEMENTS IN MEDICAID CASE MANAGEMENT SERVICES AND HOME AND COMMUNITY-BASED WAIVERS.

(a) IN GENERAL.—Section 1902(a) (42 U.S.C. 1396a) is amended—

(1) in paragraph (23), by inserting "(including case management services under subsections (c), (d), and (g) of such section)" after "in section 1915"; and

(2) in paragraph (32)—

(A) by striking the period at the end of subparagraph (C) and inserting "; and"; and

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

"(D) in the case of services arranged through the case management agency under subsections (c), (d), or (g) of section 1915, payments made by the case management agency to providers of services shall be permitted provided that—

"(i) the case management entity is a nonprofit entity;

"(ii) the case management entity maintains a clear system of records demonstrating conformity between payments made and services required under the individual's plan of care; and

"(iii) the entity makes assurances satisfactory to the State that providers paid by the entity, for covered services to individuals eligible under this title, are eligible for payments under the provisions of this title;".

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to payments for medical assistance for calendar quarters beginning on or after January 1, 1993.

SEC. 4. LIABILITY OF THIRD PARTIES UNDER MEDICAID FOR CERTAIN SERVICES.

(a) IN GENERAL.—Section 1902(a)(25) (42 U.S.C. 1396a(a)(25)) is amended—

(1) by striking "and" at the end of subparagraph (F),

(2) by striking the semicolon at the end of subparagraph (G) and inserting "; and", and

(3) by adding at the end the following new subparagraph:

"(H) that in the case of services prescribed under an Individual Education Plan or Individualized Family Service Plan under part B or part H of the Individuals with Disabilities Education Act for children who are eligible for medical assistance under such plan, the State or local agency administering such plan is not required to take measures to ascertain the legal liability of third parties or to recover against any such third parties under this paragraph with respect to such services;".

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to payments for medical assistance for calendar quarters beginning on or after January 1, 1993.

SEC. 5. REPORT ON CHILDREN WITH SPECIAL HEALTH CARE NEEDS.

(a) IN GENERAL.—Not later than January 1, 1994, the Secretary of Health and Human Services (hereafter in this section referred to as the "Secretary") shall report to the Committee on Finance of the Senate and the Committee on Energy and Commerce of the House of Representatives, on how risk contracting entities (as defined in section 1931(a)(3) of the Social Security Act) and primary care case management programs (as defined in section 1931(a)(1) of such Act) or other types of coordinated care arrangements, can be utilized to serve children with special health care needs (as defined in section 1931(e)(1)(B)(ii) of such Act) to ensure that such children receive adequate care from appropriate health care providers.

(b) CONTENTS OF REPORT.—The report referred to in subsection (a) shall include—

(1) recommendations on appropriate methodologies, if any, to establish capitation rates paid to risk contracting entities, and fees paid to primary care case management entities, with respect to children with special health care needs;

(2) an evaluation of the appropriateness of the definition of children with special health care needs in section 1931(e)(1)(B)(ii) of the Social Security Act and, if applicable, recommendations to amend such definition;

(3) an evaluation of the care children with special health care needs are receiving under existing coordinated care arrangements under title XIX of such Act and, if applicable, recommendations about how to modify current requirements under such title related to such children;

(4) recommendations about how to enhance coordination of the medicaid program under title XIX of such Act and the Maternal and Child Health Block Grant program, under title V of such Act, respectively, at the Federal and State levels to improve the delivery of services to children with special health care needs who are eligible for medical assistance under title XIX of such Act and are enrolled with risk contracting entities or primary care case management entities; and

(5) a comparison of the care provided to children with special health care needs under a fee for service system and the care provided to such children under a coordinated care system.

SEC. 6. REPORT ON PUBLIC HEALTH SERVICES.

(a) IN GENERAL.—Not later than January 1, 1994, the Secretary of Health and Human Services (hereafter in this section referred to as the "Secretary") shall report to the Committee on Finance of the Senate and the Committee on Energy and Commerce of the House of Representatives on the effect of risk contracting entities (as defined in section 1931(a)(3) of the Social Security Act) and primary care case management entities (as defined in section 1931(a)(1) of such Act) on the delivery of and payment for the services listed in subsection (f)(2)(C)(ii) of section 1931 of such Act.

(b) CONTENTS OF REPORT.—The report referred to in subsection (a) shall include—

(1) information on the extent to which enrollees with risk contracting entities and primary care case management programs seek services at local health departments, public hospitals, and other facilities that provide care without regard to a patient's ability to pay;

(2) information on the extent to which the facilities described in paragraph (1) provide services to enrollees with risk contracting entities and primary care case management programs without receiving payment;

(3) information on the effectiveness of systems implemented by facilities described in paragraph (1) for educating such enrollees on services that are available through the risk contracting entities or primary care case management programs with which such enrollees are enrolled;

(4) to the extent possible, identification of the types of services most frequently sought by such enrollees at such facilities; and

(5) recommendations about how to ensure the timely delivery of the services listed in subsection (f)(2)(C)(ii) of section 1931 of the Social Security Act to enrollees of risk contracting entities and primary care case management entities and how to ensure that local health departments, public hospitals, and other facilities are adequately compensated for the provision of such services to such enrollees.

SEC. 7. REPORT ON PAYMENTS TO HOSPITALS.

(a) IN GENERAL.—Not later than October 1 of each year, beginning with October 1, 1993, the Secretary of Health and Human Services (hereafter in this section referred to as the "Secretary") and the Comptroller General of the United States shall analyze and submit a report to the Committee on Finance of the Senate and the Committee on Energy and Commerce of the House of Representatives on rates paid for hospital services under coordinated care programs described in section 1931 of the Social Security Act.

(b) CONTENTS OF REPORT.—The information in the report described in subsection (a) shall—

(1) be organized by State, type of hospital, type of service, and

(2) include a comparison of rates paid for hospital services under coordinated care programs with rates paid for hospital services furnished to individuals who are entitled to benefits under a State plan under title XIX of the Social Security Act and are not enrolled in such coordinated care programs.

(c) REPORTS BY STATES.—Each State shall transmit to the Secretary, at such time and in such manner as the Secretary determines appropriate, the information on hospital rates submitted to such State under section 1931(b)(3)(P).

SEC. 8. REPORT ON PAYMENTS TO RISK CONTRACTING ENTITIES.

(a) IN GENERAL.—Not later than October 1 of each year, beginning with October 1, 1993, the Secretary of Health and Human Services (hereafter in this section referred to as the "Secretary") and the Comptroller General of the United States shall analyze and submit a report to the Committee on Finance of the Senate and the Committee on Energy and Commerce of the House of Representatives on rates paid by States to risk contracting entities (as defined in section 1931(a)(3) of the Social Security Act) participating in coordinated care programs under section 1931 of such Act.

(b) CONTENTS OF REPORT.—The information in the report described in subsection (a) shall compare rates paid by States to risk contracting entities to rates paid by private insurers to entities which are similar to risk contracting entities.

(c) REPORTS BY STATES.—Each State shall transmit to the Secretary, at such time and in such manner as the Secretary determines appropriate, information on rates paid by such State to risk contracting entities.

SEC. 9. CONVENING OF SECRETARIAL GROUPS ON SENTINEL HEALTH EVENTS AND ENCOUNTER DATA FORMATS.

(a) SENTINEL HEALTH EVENTS.—The Secretary of Health and Human Services (hereafter in this section referred to as the "Secretary") shall no later than 1 year after the date of enactment of this Act convene a group composed of State medicaid staff, physicians, and representatives from public or private health maintenance organizations and submit to Congress no later than 18 months after the date of enactment of this Act recommendations on criteria to be used by States and the coordinated care programs described in section 1931 of the Social Security Act to determine underutilization in certain distinct health areas.

(b) ENCOUNTER DATA FORMATS.—The Secretary shall no later than 1 year from the date of enactment of this Act convene a group composed of State medicaid staff and representatives from public or private health maintenance organizations and submit to Congress no later than 18 months after the date of enactment of this Act recommendations on—

(1) the feasibility of utilizing encounter data concerning services provided by coordinated care programs described in section 1931 of the Social Security Act to individuals receiving services under such programs under the medicaid program, and

(2) data elements and formats to be used in submission and State review of such data.●

● Mr. DURENBERGER. Mr. President, it is a pleasure for me to join my colleague, Senator MOYNIHAN, in introducing the Medicaid Coordinated Care Improvement Act of 1992.

This bill replaces and builds on S. 2077, the Medicaid Managed Care Improvement Act, which we introduced on November 26, 1991. These two bills share a common purpose: to remove the Federal barriers discouraging States from giving Medicaid clients the benefits of coordinated care.

We have chosen to introduce a new bill to reflect the many improvements, large and small, that have come out of discussions we have had with States, health maintenance organizations, consumer groups, hospitals, federally qualified health centers and other interested parties.

The essence of the bill is that States would no longer have to undergo the uncertain and frustrating process of seeking Federal Government waivers every time one of them wished to establish a coordinated care program for Medicaid enrollees. Millions of Americans already receive their care from health maintenance organizations and other forms of coordinated care. This is hardly a novel method of delivering health care and it shouldn't be a Federal case if a State wishes to offer it.

At the same time, we have written into this bill consumer safeguards that are unmatched in any health program under current law—and that far exceed the very few requirements faced by the traditional, uncoordinated, fee-for-service providers serving Medicaid clients.

For example:

A State may only require a Medicaid client to enroll in coordinated care if the client has a choice of at least two HMOs, or of one HMO and one primary care case management plan;

An HMO serving these clients must accept all who choose it, regardless of health status. Clients, however, may disenroll for any reason with little more than a month's notice;

An HMO must advise each client of his or her rights in writing, must have doctors available 24 hours a day, and must have a grievance system and written quality assurance program;

The State must operate a toll-free telephone line to receive complaints, must do periodic surveys of enrollee satisfaction, and must arrange annual independent reviews of each coordinated care plan; and

Children with special needs may choose to opt out of the coordinated care program, though I expect the program to offer just the kind of care they want and need.

I can't think of a single change we have made that makes this bill a worse deal for consumers. We have given Medicaid clients more choice, tightened the quality assurance requirements, and specified that coordinated care organizations must work together with community health centers and other caregivers serving this population.

Mr. President, I expect this bill to improve access, quality, and cost-effectiveness of health care for Medicaid enrollees across the Nation.

Access will be better because these providers will come forward—as they have in New York, Minneapolis, and Philadelphia—to serve a population often ignored by fee-for-service physicians. Quality will be enhanced because of greater emphasis on preventing illness and on continuity of care. And cost-effectiveness will be improved for exactly the same reasons. It's cheaper to do it right the first time—to get that expectant mother into the doctor's office now instead of paying the big hospital bills later.

This is something that Republicans, Democrats, the States, the administration, caregivers, and consumers can all agree on. I know that because we have already agreed on it—and I urge my colleagues in the Finance Committee and on the floor to give this bill speedy passage.●

By Mr. BREAUX:

S. 3192. A bill to reform and revitalize the shipbuilding industry of the United States; to the Committee on Commerce, Science and Transportation.

SHIPBUILDING TRADE REFORM ACT OF 1992

Mr. BREAUX. Mr. President, I am introducing a bill today that amends section 19 of the Merchant Marine Act of 1920, to establish specific retaliatory procedures concerning subsidies and other anticompetitive practices of foreign governments and foreign shipyards, tracking to the greatest extent possible the existing mechanisms of section 19 with respect to foreign shipping practices, and providing new language concerning shipyard-related practices when necessary. The bill also incorporates certain key concepts and specific language from H.R. 2056, also known as the Gibbons bill.

The bill creates a new provision in section 19 authorizing the Federal Maritime Commission [FMC] to mitigate "conditions unfavorable" to the ability of U.S. shipbuilders to build vessels for international commerce, as opposed to domestic Jones Act commerce. If such conditions are found to be caused by foreign government subsidies, other foreign government competitive practices, or anticompetitive practices of foreign shipbuilders, the FMC would take action through a formal rulemaking procedure which very closely tracks the existing and highly successful procedure currently used by the FMC with regard to "conditions unfavorable" to shipping.

The bill broadly defines "subsidies" in the same manner as does the Gibbons bill. This definition essentially represents a summary of the findings of the Organization for Economic Cooperation and Development [OECD] working group No. 6 concerning shipyard subsidy practices.

It also broadly defines the term "conditions unfavorable" to the ability of U.S. shipyards to construct vessels for international commerce as those conditions which, provide a disincentive to invest in U.S. shipyard facilities, equipment, and technology; contribute to a reduction in the competitiveness of U.S. shipyards; or otherwise distort the international market for ship construction—unless such conditions which exist for foreign shipyards also exist in the United States. This last clause ensures that FMC actions will not be taken against foreign countries if their actions are on par with U.S. policies or programs involving the coastwise trades, cargo preference, title XI, and shipyard research and development. This is necessary in order to prevent substantiated retaliation or successful judicial review of FMC actions by foreign countries.

This bill also tracks the existing section 19 rulemaking procedure by enabling shipbuilders and shipyard associations to petition the FMC to initiate a rulemaking procedure. Upon making a preliminary finding of "conditions unfavorable" concerning shipbuilding, the FMC would publish a proposed rule in the Federal Register setting forth the allegations and supporting facts concerning the offending country.

A firm time limit of a maximum of 210 days is established in this bill for foreign countries named in an FMC proposed rule to negotiate an adequate settlement to the allegations raised in the proposed rule. If during this comment period an agreement is reached to eliminate the subsidies or other anticompetitive practices of the foreign country, the FMC withdraws the proposed rule. Failure to reach an agreement at the end of the 210-day comment period compels the FMC to publish a final rule that makes a final finding that "conditions unfavorable" exist, and invoking specific penalties.

The rather harsh existing section 19 penalties against common carriers, nonvessel common carriers, and vessels with connections to the foreign country named in the FMC final rule are adopted in this bill. Penalties include denial of access to U.S. ports, suspension of conference tariffs, revocation of existing preferential treatment agreements, imposition of fines up to $1 million per voyage, and any other action the FMC deems necessary and appropriate.

Under this bill, the U.S. Customs Service is given new authority to protect U.S. ports by preventing carriers or vessels of a country named in the FMC final rule from diverting cargo through Canadian or other foreign ports and thereby avoiding FMC penalties and subverting the intent of this bill.

This bill specifically excludes U.S.-flag vessels from section 19 actions and penalties. However, the bill does not exclude foreign-flag vessels that are owned and operated by U.S. carriers.

The intent is to strengthen the U.S.-flag fleet, not to encourage further investment in foreign-flag vessels.

The Gibbons bill investigation and blacklist concepts are adopted in this bill by requiring the FMC to conduct on a continuing basis an investigation into the subsidy and anticompetitive practices of foreign countries, particularly those OECD nations which failed to enter into an agreement with the United States earlier this year. It will also require the FMC to maintain a blacklist of foreign shipyards receiving subsidies or engaging in anticompetitive practices.

Finally, the bill adopts and strengthens the Gibbons bill congressional findings concerning foreign shipyard subsidies and other anticompetitive practices including a finding that the OECD countries which failed to reach an agreement with this year to eliminate their subsidy practices are engaging in unfair and unreasonable trade practices which burden U.S. commerce, which injure U.S. shipyards, and which create conditions unfavorable to the ability of U.S. shipyards to construct vessels for international commerce.

Mr. President, I request that the text of the bill and my statement be printed in the CONGRESSIONAL RECORD.

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

S. 3192

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 "Shipbuilding Trade Reform Act of 1992".

SEC. 2. FINDINGS AND PURPOSE.

(a) The Congress finds that—

(1) in 1981, the United States Government terminated funding for the construction-differential subsidy program, thereby ending direct subsidization of commercial ship construction in the United States;

(2) since 1981, the international market for ship construction has been distorted by a wide array of subsidies and other anticompetitive practices by foreign countries, including but not limited to the member countries of Working Party #6 of the Organization for Economic Cooperation and Development;

(3) such subsidies and anticompetitive practices include but are not limited to direct grants, preferential financing, equity infusions, research and development assistance, restructuring aid, special tax concessions, debt forgiveness, and other forms of direct and indirect assistance;

(4) foreign countries that directly or indirectly provide subsidies or other forms of anticompetitive assistance for the construction of vessels are engaging in unfair and unreasonable trade practices which burden United States commerce, which injure the United States ship construction industry, and which create general or special conditions unfavorable to the ability of United States shipbuilders to engage in the construction of vessels for international commerce;

(5) strong, effective multilateral agreement among shipbuilding nations to eliminate trade-distorting practices in the ship construction industry is the best means of providing for fair international competition; absent such an agreement, however, greater protection through United States law against unfair and unreasonable trade practices in the international ship construction industry is necessary; and

(6) a viable United States ship construction industry is necessary to achieve the national defense and economic security interests of the United States.

(b) The purpose of this Act is to provide effective remedies against subsidies and other anti-competitive assistance provided by foreign countries to their shipbuilding industries for ship construction.

SEC. 3. AMENDMENTS TO SECTION 19 OF THE MERCHANT MARINE ACT, 1920.

(a) Section 19(1) of the Merchant Marine Act, 1920 (46 App. U.S.C. 876(1)), is amended—

(1) by striking "and" at the end of subdivision (b);

(2) by redesignating subdivision (c) as subdivision (d); and

(3) by inserting the following new subdivision:

"(c) To make rules and regulations affecting shipping in the foreign trade not in conflict with law in order to adjust or meet general or special conditions unfavorable to the ability of any United States shipbuilder to engage in the construction of vessels for international commerce which arise out of or result from shipbuilding subsidies or other anticompetitive practices, laws, rules, or regulations of a foreign country or from competitive methods or practices, including anticompetitive practices involving business entities, employed by any shipbuilder in a foreign country; and".

(b) Section 19(3) of the Merchant Marine Act, 1920 (46 App. U.S.C. 876(3)), is amended by striking "subdivision (c)" and inserting in lieu thereof "subdivision (d)".

(c) Section 19(5) of the Merchant Marine Act, 1920 (46 App. U.S.C. 876(5)), is amended—

(1) by striking "paragraph (1)(b)" each place it occurs and inserting in lieu thereof "paragraphs (1)(b) or (1)(c)"; and

(2) by inserting "shipbuilder," immediately after "terminal operator,".

(d) Section 19(6) of the Merchant Marine Act, 1920 (46 App. U.S.C. 876(6)), is amended—

(1) by striking "paragraph (1)(b)" and inserting in lieu thereof "paragraphs (1)(b) and (1)(c)"; and

(2) by inserting "shipbuilder," immediately after "terminal operator,".

(e) Section 19(7) of the Merchant Marine Act, 1920 (46 App. U.S.C. 876(7)), is amended—

(1) by striking "paragraph (1)(b)" and inserting in lieu thereof "paragraphs (1)(b) or (1)(c)"; and

(2) striking "paragraph (1)(b)(7) of this section" in subdivision (d) and inserting in lieu thereof "this paragraph".

(f) Section 19(9) of the Merchant Marine Act, 1920 (46 App. U.S.C. 876(9)), is amended—

(1) by inserting "or if the Commission finds that conditions that are unfavorable to the ability of any United States shipbuilder to engage in the construction of vessels for international commerce under paragraph (1)(c) of this section exist," immediately after "section exist,"; and

(2) in subdivision (e), by inserting "or to the ability of any United States shipbuilder to engage in the construction of vessels for international commerce" immediately after "United States".

(g) Section 19(10) of the Merchant Marine Act, 1920 (46 App. U.S.C. 876(10)), is amended—

(1) by striking "paragraph (1)(b)" each place it occurs and inserting in lieu thereof "paragraphs (1)(b) or (1)(c)";

(2) by redesignating subdivision (b) as subdivision (c); and

(3) by inserting immediately after subdivision (a) the following new subdivision:

"(b) the collector of customs at the port or place of destination in the United States shall refuse the entry to the United States of cargo carried on a vessel or by a carrier that is named in a rule or regulation issued by the Commission under paragraphs (1)(b) or (1)(c) of this section and transported to a point in the United States through a foreign port in a contiguous country; and ".

(h) Section 19 of the Merchant Marine Act, 1920 (46 App. U.S.C. 876), is amended by adding at the end of the following new paragraphs:

"(13) With respect to the proceedings under paragraph (1)(c) of this section—

"(a) the Commission may not take any action with respect to a foreign country which is a party to and is in substantial compliance with a trade agreement to which the United States is also a party that provides for the elimination of subsidies for the construction of vessels;

"(b) The Commission shall not take any action against vessels documented under the laws of the United States;

"(c) The Commission shall investigate, on a continuing basis and in cooperation with other agencies of the Government, subsidies and other anticompetitive practices, laws, rules, or regulations of foreign countries including but not limited to the member countries of Working Party #6 of the Organization for Economic Cooperation and Development, and shall establish and maintain a list of any foreign shipbuilder that receives the benefit from, directly or indirectly, such subsidies or other anticompetitive practices, laws, rules, or regulations of a foreign country, or which otherwise employs competitive methods or practices, including anticompetitive practices involving business entities, which cause general or special conditions unfavorable to the ability of any United States shipbuilder to engage in the construction of vessels for international commerce; and

"(d) the Commission shall make its finding as to the existence of conditions unfavorable to the ability of any United States shipbuilder to engage in the construction of vessels for international commerce within 120 days of initiating a rule or regulation, except that the Commission may extend such 120-day period for one additional period of 90 days if the Commission is unable to obtain sufficient information to make such finding.

(14) For purposes of this section—

"(a) the term 'conditions unfavorable to the ability of any United States shipbuilder to engage in the construction of vessels for international commerce' includes but is not limited to conditions which—

"(i) provide a disincentive to investment in United States ship construction facilities, equipment, and technology;

"(ii) contribute to a reduction in the competitiveness of any United States shipbuilder to engage in the construction of vessels for international commerce; or

"(iii) otherwise contribute to a distortion of the international market for ship construction, and which do not exist for any foreign shipbuilder of that country in the United States.

"(b) the term 'subsidies' includes but is not limited to any of the following:

"(A) Officially supported export credits and development assistance.

"(B) Direct official operating support to the commercial ship construction industry, or to a related entity that favors the operation of ship construction, including—

"(i) grants;

"(ii) loans and loan guarantees other than those available on the commercial market;

"(iii) forgiveness of debt;

"(iv) equity infusions on terms inconsistent with commercially reasonable investment practices;

"(v) preferential provision of goods and services;

"(vi) public sector ownership of commercial ship construction facility on terms inconsistent with commercially reasonable investment practices.

"(C) Direct official support for investment in the commercial ship construction industry, or to a related entity that favors the operation of ship construction, including the kinds of support listed in clauses (i) through (v) of subparagraph (B), and pay restructuring support, except public support for social purposes directly and effectively linked to ship construction facility closures.

"(D) Assistance in the form of grants, preferential loans, preferential tax treatment, or otherwise, that benefits or is directly related to ship construction for purposes of research and development that is not equally open to domestic and foreign enterprises.

"(E) Tax policies and practices that favor the ship construction industry, directly or indirectly, such as tax credits, deductions, exemptions and preferences, including accelerated depreciation, if the benefits are not generally available to persons or firms not engaged in ship construction.

"(F) Any official regulation or practice that authorizes or encourages persons or firms engaged in ship construction to enter into anti-competitive arrangements.

"(G) Any indirect support directly related, in law or in fact, to ship construction at national yards, including any public assistance favoring shipowners with an indirect effect on ship construction activities, and any assistance provided to suppliers of significant inputs to ship construction, which results in benefits to any domestic shipbuilder.

(H) Any export subsidy identified in the Illustrative List of Export Subsidies in the Annex to the Agreement on Interpretation and Application of Articles VI, XVI, and XXIII of the General Agreement on Tariffs and Trade or any other export subsidy that may be prohibited as a result of the Uruguay Round of trade negotiations;

"(c) the term 'shipbuilder' means any person, including but not limited to any individual, partnership, corporation, association or any other business entity or combination of business entities, that is engaged in or promoting the development of ship construction; and

"(d) the term 'construction' means, construction, reconstruction, reconditioning or repair.".

By Mr. BIDEN:

S. 3193. A bill to consolidate within the executive branch of Government authorities in law to control the transfer to foreign countries of military equipment and technology and dual-use goods and technology; to the Committee on Foreign Relations.

WEAPONS PROLIFERATION CONTAINMENT ACT OF 1992

Mr. BIDEN. Mr. President, today I am introducing legislation to address a critical issue facing the United States in the new world order: The proliferation of dangerous weapons and technologies.

With the collapse of the Soviet empire, a new strategy of containment is needed for the United States and its allies—containment not of the Communist monolith, but of the advanced weapons, technologies, and equipment capable of mass destruction.

According to unclassified testimony presented to Congress by the Director of Central Intelligence, over 20 States have or are acquiring weapons of mass destruction. Several countries have missiles that could carry nuclear warheads. Most major Middle Eastern countries have chemical weapons development programs.

As Saddam Hussein's Iraq so clearly demonstrated prior to the Gulf war, any nation with the resources and the determination to acquire mass destruction technologies can assemble an arsenal capable of terrorizing its neighbors, and ultimately, the world. Indeed, Saddam's manifest quest for biological, chemical, and nuclear weapons provides a case study in stockpiling such armaments.

While bound by the restrictions of the Nuclear Nonproliferation Treaty, Saddam began accumulating the means to produce a nuclear weapon. In violation of the Geneva Convention on chemical weapons, Saddam Hussein gassed thousands of Kurds, yet subsequently proceeded to enlarge his chemical stockpile with the assistance of western companies. Despite efforts by industrialized nations to restrain the trade in missile technology, Saddam began to acquire advanced missiles.

And in a bizarre twist, Saddam fraudulently manipulated a United States agricultural credit program to finance the purchase of military equipment.

In short, the United States and the West were accomplices in Saddam's build-up, turning a blind eye while he assembled a massive war machine that invaded Kuwait and threatened the security of the Arabian Peninsula.

The full story of this Nation's prewar Iraq policy has yet to be fully revealed. Numerous congressional committees are examining the policy decisions that resulted in the coddling of Saddam, who President Bush later called "worse than Hitler."

What is known thus far is that the policy that sought to moderate Saddam's behavior was—even by the Bush administration's own admission—a failure. A critical element of this failure was the breakdown of our export control system, a system designed to prevent dangerous technologies from falling into the hands of dangerous dictators like Saddam Hussein.

The examples of this breakdown are legion. In early 1990, for instance, Deputy Secretary of State Lawrence Eagleburger instructed a number of United States embassies to warn our allies not to sell glass-fiber related technology to Iraq. Within 4 months, our Commerce Department did just that, granting a license to a U.S. firm to export glass-fiber equipment and technology.

Around the same time, the Bush administration approved for export to Iraq a "skull" furnace, which can be used in the production process for nuclear bomb cores as well as ballistic missile components. Despite the fact that the exporter, a New Jersey company known as CONSARC, informed the Commerce Department that the principal end use of the equipment could involve nuclear weapons, the Commerce Department approved the sale. Only last minute intervention by the Pentagon, the result of a tip by a journalist, prevented the furnace from being shipped.

In November 1986, the Defense Department informed the Commerce Department that intelligence information linked the SA'AD 16 research center in Iraq with ballistic missile development—a warning that should have set off alarm bells throughout our export licensing bureaucracy. Yet the Department of Commerce continued to approve dual-use exports—goods with both military and commercial applications—for SA'AD 16, including equipment that could be used in ballistic missile development.

These are not isolated incidents. Between 1985 and August, 1990, the Commerce Department approved for sale to Iraq 771 export licenses for dual-use items. While some of these items were assuredly for legitimate commercial use, many exports undoubtedly contributed to enhancing the military capability of Saddam's war machine. In fact, some 80 export licenses were granted for products destined for the Iraqi Armed Forces.

Mr. President, the breakdown in our export control machinery in the case of Iraq demonstrates a system badly in need of repair. Constructed to restrain the flow of military-related technology to the Soviet Empire, our export control system has become overburdened by a welter of confusing regulations and agencies with conflicting missions.

Last year, the National Academy of Sciences issued a report that examined the export control system. The report details the inherent confusion in the system:

> Export controls are issued under a multiplicity of statutes with differing objectives and criteria. Over a dozen agencies, plus the military services, [administer] controls and apply distinct regulatory provisions that often overlay and conflict. The lead agencies in constructing export control policy hold strongly diverse positions corresponding to their separate interests.

According to the report, the Congressional Research Service was unable to find an analogous area with a comparable number of differing bureaucrats and regulatory categories. The

report continues: "A disproportionate amount of bureaucratic resources are thus expended in resolving disputes, rather than administering and enforcing the export control system."

On conventional arms, the Bush Administration is no less conflicted. Despite a rhetorical commitment to restrain sales, the United States is now far and away the leading arms merchant in the developing world. According to a recent report by the Congressional Research Service [CRS], in 1991 the United States was the leading purveyor of weapons in the Third World—selling 57 percent of the arms sold to developing nations.

Consider this, the next time President Bush proclaims his commitment to conventional arms control: In 1985, the United States sold just 9 percent of the weapons transferred to the developing world. In 1990, the United States controlled 44 percent of the market; last year, U.S. Market share rose to 57 percent.

Thus far, negotiations pursued among the five permanent members of the U.N. Security Council—initiated at the behest of President Bush in 1991—have proceeded at a glacial pace, yielding only a trivial pledge to share information about sales already made, an ex post facto data exchange that, if implemented, will serve only to underscore the failure of the administration to achieve prior restraint.

The administration's failure to stem the proliferation of both conventional and unconventional weapons is perhaps best explained by the fact that during the cold war, nonproliferation was deemed a second-order priority. But now, with the containment of proliferation as our top national security priority, we must raise the profile of these efforts.

That is why today I am introducing the Weapons Proliferation Containment Act, a bill to consolidate central authority in a newly-created nonproliferation agency. The new agency will have responsibility for the control of all security exports, including conventional weapons sales, nuclear technology, and dual-use items.

The agency will be a new entity within the executive branch, but it need not require an increase in Government employment or expenditure. The bill provides for the transfer of authority and personnel from existing agencies—such as the Departments of Commerce, State and Defense—to the new agency.

The director of the new agency will amount to a nonproliferation czar, with primary responsibility for, and final authority over, the export of all weapons and weapons technologies. Under the supervision of the President, the director will also be responsible for international agreements to stem the flow of weapons and weapons technologies.

Mr. President, the central purpose of this legislation is to enhance the ability of the United States to achieve its nonproliferation goals: Keeping dangerous weapons out of the hands of dangerous nations. But it need not—nor do I intend it to do so—interfere with legitimate commerce. In fact, I believe that this legislation will ease the burden on American exporters, by providing one-stop shopping for companies. With clear responsibility granted to one Federal agency, U.S. firms will no longer have to guess which department holds the key to an export license.

Finally, having established central coordination and authority within the U.S. Government, this legislation gives teeth to our nonproliferation policy by mandating that the American representative to each major multilateral financial institution vote to deny assistance to any nation that has violated specified standards or prohibitions in the supply or acquisition of weapons of mass destruction, ballistic missiles, and advanced conventional arms.

Our goal must be to imbue American policy—and to instill in the international community—a pervasive principle: That proliferation-supporting behavior by companies or nations is anathema, and subject to rigorous measures of detection and punishment.

Just as we reorganized the national security bureaucracy after World War II to deal with the emerging world order—establishing the Central Intelligence Agency and reorganizing the Department of Defense—we must again revamp our institutions so that we are prepared to address the problems of the new world order. The creation of the nonproliferation agency is one step in that direction.

Mr. President, I want to state that I have no pride of authorship, and do not consider this bill to be a final product. Indeed, I plan to continue to revise this proposal in the months ahead, and I welcome suggestions from my colleagues, as well as outside experts.

Mr. President, I ask unanimous consent that the text of the legislation be printed in the RECORD.

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

S. 3193

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 "Weapons Proliferation Containment Act of 1992".

SEC. 2. FINDINGS.

The Congress finds that—

(1) halting the global proliferation of nuclear, chemical, biological and conventional weaponry constitutes a matter of the highest priority for the national security of the United States;

(2) the United States Government currently is poorly organized to formulate and implement a comprehensive, coherent nonproliferation policy because responsibility for that policy is divided among a large number of competing Federal agencies with differing agenda and overlapping jurisdictions; and

(3) it is necessary to reorganize the Federal Government's administration of non-proliferation policy in order to establish clear lines of responsibility and to limit the final responsibility for policy formulation and implementation to one recognizable public agency.

SEC. 3. DEFINITIONS.

As used in this Act—

(1) the term "Director" means the Director of the Non-Proliferation Agency;

(2) the term "dual-use goods" means goods that have both commercial and military applications;

(3) the term "dual-use technology" means technology that has both commercial and military applications;

(4) the term "end-use" means the intended application or use of an item as represented by the importer to the export license applicant and the term "end-user" means the person located abroad who is the true party in interest in actually receiving the export for the designated end-use;

(5) the term "export" means—

(A) an actual shipment, transfer, or transmission of goods or technology out of the United States;

(B) a transfer of goods or technology in the United States to an embassy or affiliate of a controlled country; or

(C) a transfer to any person of goods or technology either within the United States or outside of the United States with the knowledge or intent that the goods or technology will be shipped, transferred, or transmitted to an unauthorized recipient;

(6) the term "foreign person" means—

(A) an individual who is not a citizen of the United States or an alien admitted for permanent residence to the United States; or

(7) the term " good" means any article, natural or manmade substance, material, supply or manufactured product, including inspection and test equipment and excluding technical data;

(8) the term "missile" means a category I system, as defined in the MTCR Annex, and any other unmanned delivery system of similar capability, as well as the specially designed production facilities for these systems;

(9) the term "Missile Technology Control Regime" or "MTCR" means the policy statement, between the United States, the United Kingdom, the Federal Republic of Germany, France, Italy, Canada, and Japan, announced on April 16, 1987, to restrict sensitive missile-relevant transfers based on the MTCR Annex, and any amendments thereto;

(10) the term "MTCR Annex" means the Equipment and Technology Annex of the MTCR, and any amendment thereto;

(11) the term "security export" means any export the control of which is important to the national security interests of the United States;

(12) the term "technology" means the information and know how (whether in tangible form, such as models, prototypes, drawings, sketches, diagrams, blueprints, or manuals, or in intangible form, such as training or technical services) that can be used to design, produce, manufacture, utilize, or reconstruct goods, including computer software and technical data, but not the goods themselves;

(13) the term "United States" means the States of the United States, the District of Columbia, and any commonwealth, territory,

dependency, or possession of the United States, and includes the outer Continental Shelf, as defined in section 2(a) of the Outer Continental Shelf Lands Act (43 U.S.C. 1331(a)); and

(14) the term "United States person" means any United States resident or national (other than an individual resident outside the United States and employed by other than a United States person), any domestic concern (including any permanent domestic establishment of any foreign concern), and any foreign subsidiary or affiliate (including any permanent foreign establishment) of any domestic concern which is controlled in fact by such domestic concern, as determined under regulations of the President.

TITLE I—ESTABLISHMENT OF THE NON-PROLIFERATION AGENCY AND THE SPECIAL TASK FORCE ON NON-PROLIFERATION

SEC. 101. NON-PROLIFERATION AGENCY.

(a) ESTABLISHMENT.—There is established within the executive branch of Government the Non-Proliferation Agency (hereafter in this Act referred to as the "Agency").

(b) APPOINTMENT OF DIRECTOR.—(1) The Agency shall be headed by the Director of the Non-Proliferation Agency, who shall be appointed by the President, by and with the advice and consent of the Senate.

(2) The Director shall serve at the pleasure of the President and shall report directly to the President.

(3) No person serving on active duty as a commissioned officer of the Armed Forces of the United States may be appointed Director.

(4) Section 5313 of title 5, United States Code, is amended by adding at the end the following: "Director of the Non-Proliferation Agency".

(c) RESPONSIBILITIES OF DIRECTOR.—(1) The Director shall have primary responsibility within the Government for controlling the transfer to foreign countries of military equipment and technology and dual-use goods and technology.

(2) The Director, under the supervision of the President, may enter into international agreements for the control of items of the type controlled under this Act or under section 38 of the Arms Export Control Act.

SEC. 102. CONTROL OF ITEMS ON UNITED STATES MUNITIONS LIST.

Section 38 of the Arms Export Control Act (22 U.S.C. 2778) is amended—

(1) by amending subsection (a)(2) to read as follows:

"(2) The authority contained in this section shall be exercised by the Director of the Non-Proliferation Agency (hereafter in this section referred to as the "Director"). In making a decision on issuing an export license under this section, the Director shall take into account whether the export of an article will contribute to an arms race, support international terrorism, increase the possibility of outbreaks or escalation of conflict, prejudice the development of bilateral or multilateral arms control arrangements.";

(2) in subsection (b)—

(A) in paragraph (1)(A), by striking "United States Government agency charged with the administration of this section," and inserting "Non-Proliferation Agency";

(B) in paragraph (1)(B), by striking "President" and inserting "Director"; and

(C) in paragraph (3), by striking in the first sentence "Department of State" and inserting "Non-Proliferation Agency";

(3) in subsection (e), by striking "President" and inserting "Director";

(4) in subsection (g)—

(A) in paragraph (1), by striking "President" and inserting "Director";

(B) in paragraph (2), by striking "President" and inserting "Director";

(C) in paragraph (3), by striking "President" each of the 3 places it appears and inserting "Director";

(D) in paragraph (4), by striking "President" each of the 2 places it appears and inserting "Director";

(E) in paragraph (6), by striking "President" and inserting "Director"; and

(F) in paragraph (7), by striking "President" and inserting "Director"; and

(5) in subsection (h), by striking "(or by an official" and all that follows through "delegated)" and inserting "or by the Director".

SEC. 103. AUTHORITY TO CONTROL DUAL-USE TRANSFERS.

(A) ESTABLISHMENT OF LIST.—(1) The Director, in consultation with the Task Force, shall establish and maintain a consolidated Dual-Use Security Transfers List (hereafter in this Act referred to as the "control list") which shall identify all dual-use goods and technology described in subsection (c) which shall be subject to controls under this Act.

(2) The Director shall cause the control list to be published in the Federal Register.

(3) The Secretary of Commerce, upon request, shall furnish the Director will all information held by the Department of Commerce which identifies dual-use goods and technology.

(b) AUTHORITY TO CONTROL EXPORTS OF DUAL-USE ITEMS.—(1) The Director is authorized to prohibit or curtail the export of any goods or technology enumerated in the control list which is subject to the jurisdiction of the United States or exported by any person subject to the jurisdiction of the United States.

(2) The Director shall require a validated license for any expert of goods or technology on the control list.

(3) With respect to any item enumerated on the control list, the Director shall be subject to the same terms, limitations, and restrictions applicable before the date of enactment of this Act to export controls on the same item under sections 5 and 6 of the Export Administration Act of 1979.

(c) DESIGNATION OF CONTROLLED ITEMS.—The Director shall include as items on the control list—

(1) goods and technology that would directly and substantially assist a foreign government or group in acquiring the capability to develop, produce, stockpile, or deliver chemical or biological weapons, the licensing of which would be effective in restricting such capability;

(2) dual-use goods and technology that would assist a foreign government or group in acquiring the capability to develop, produce, or stockpile nuclear weapons;

(3) dual-use goods and technology on the MTCR Annex; and

(4) goods and technology that are not included in the MTCR Annex but that would provide a direct and immediate impact on the development of missile delivery systems.

(d) REVISION OF LIST.—(1) The Director shall review all goods and technology on the control list at least annually in order to carry out the purposes of this Act. This paragraph shall apply to the removal of items from the control list or changes in specifications in items on such list. The Director shall use the data developed from such reviews in formulating United States proposals for revision of multilateral controls in COCOM and other multilateral export control arrangements.

(2) In conducting the annual review, the Director shall consult with the Task Force and shall consider recommendations of the Task Force with respect to proposed changes in the lists.

(3)(A) The annual review required under paragraph (1) may not extend beyond 90 days after such review is begun.

(B) Before beginning each annual review period, the Director shall cause to be published in the Federal Register a notice of that review and shall provide a 30-day period for comment and submission of data, with or without oral presentation, by interested Government agencies and other interested parties.

(c) After consultation with the Task Force, the Director shall make a determination of any revisions in the control list not later than 30 days after the end of the review period. The concurrence or approval of any other department of agency is not required before any such revision is made. The Director shall cause to be published in the Federal Register any revision in the control list, with an explanation of the reasons for the revisions.

(D) In the case of controls implemented in cooperation with COCOM or other multilateral arrangement, proposals to revise the lists of controlled goods or technology may be made at any time but no item may be removed from a list without the agreement of the participating governments of any such multilateral arrangement and any revisions shall be made effective no later than the effective date agreed to by such participating governments.

SEC. 104. SPECIAL TASK FORCE ON NON-PROLIFERATION.

(a) ESTABLISHMENT.—There is established an interagency task force to be known as the Special Task Force on Non-Proliferation (in this section referred to as the "Task Force").

(b) MEMBERSHIP.—(1) The Task Force shall be composed of 13 members, who shall be designees of the following:

(A) The Director of the Non-Proliferation Agency.

(B) The Secretary of Commerce.

(C) The Secretary of Defense.

(D) The Secretary of Energy.

(E) The Secretary of State.

(F) The Secretary of the Treasury.

(G) The Director of Central Intelligence.

(H) The Director of the Federal Bureau of Investigation.

(I) The Attorney General.

(J) The Director of the United States Arms Control and Disarmament Agency.

(K) The Chairman of the Nuclear Regulatory Commission.

(L) The Commissioner of Customs.

(M) The Assistant to the President for National Security Affairs.

(2) Each member of the Task Force shall hold a position in respective Federal agency equivalent to the level of assistant secretary or above.

(3) The Director of the Non-Proliferation Agency shall serve as Chairman.

(c) DUTIES.—The Task Force shall—

(1) advise the Director regarding—

(A) the development of United States policies for the control of security exports;

(B) the compilation and streamlining of United States and international lists for the control of security exports; and

(C) specific licensing decisions in the context of overall United States interests;

(2) develop guidelines regarding enforcement and compliance procedures for the control of security exports; and

(3) make recommendations to the Congress concerning legislative action needed to carry out the purposes of this Act.

(d) NONCOMPENSATION.—Members of the Task Force shall receive no additional pay by reason of their service on the Task Force.

(e) MEETINGS.—The Task Force shall meet at the call of the Chairman, but not less often than once a month.

(f) OFFICERS.—The Chairman of the Task Force may appoint any officers to carry out duties of the Task Force under subsection (c).

(g) STAFF OF FEDERAL AGENCIES.—Upon request of the Chairman of the Task Force, the head of any of the Federal agencies under subsection (b)(1) may detail, on a nonreimbursable basis, any of the personnel of such agency to the Task Force to assist the Task Force in carrying out its duties under this Act.

(h) POWERS.—In carrying out this section, the Task Force may hold hearings, sit and act at times and places, take testimony, receive evidence and assistance, provide information, and conduct research as the Task Force considers appropriate.

(i) ADMINISTRATIVE PROVISIONS.—The provisions of the Federal Advisory Committee Act shall not apply with respect to the Task Force.

(j) REPORTS.—(1) Not later than January 31 of each year, the Task Force shall submit a report to Congress describing the development and implementation of United States policies on security exports during the preceding calendar year.

(2) The Task Force shall submit reports to the heads of any of the Federal agencies under subsection (b)(1).

SEC. 105. INTERNATIONAL FINANCIAL INSTITUTIONS

(a) IN GENERAL.—The Secretary of the Treasury shall instruct the United States executive directors of the International Bank for Reconstruction and Development, the International Development Association, the Inter-American Development Bank, and the Asian Development Bank to vote against any loan or other utilization of the funds of their respective institution to any nation that—

(1) is not a party to—

(A) the Treaty on the Non-Proliferation of Nuclear Weapons;

(B) the Biological and Toxin Weapons Convention;

(C) the Geneva Protocol on the Use of Chemical Weapons; or

(D) any other international agreement relating to conventional weapons and weapons of mass destruction as the President may determine; or

(2) is a party, but has committed a material breach or violation of the—

(A) the Treaty on the Non-Proliferation of Nuclear Weapons;

(B) the Biological and Toxin Weapons Convention;

(C) the Geneva Protocol on the Use of Chemical Weapons;

(D) the Missile Technology Control Regime; or

(E) any other international agreement relating to conventional weapons and weapons of mass destruction as the President may determine.

(b) DEFINITIONS.—For the purposes of this section—

(1) the term "Biological and Toxin Weapons Convention" means the Convention on the Prohibition of the Development, Production and Stockpiling of Bacteriological (Biological) and Toxin Weapons and on Their Destruction, done on April 10, 1972; and

(2) the term "Geneva Protocol on the Use of Chemical Weapons" means the Protocol for the Prohibition of the Use in War of Asphyxiating, Poisonous or Other Gases, and of Bacteriological Methods of Warfare, done at Geneva on June 17, 1925.

TITLE III—TRANSFER OF FUNCTIONS AND SAVINGS PROVISIONS

SEC. 201. DEFINITIONS.

For purposes of this title, unless otherwise provided or indicated by the context—

(1) the term "Federal agency" has the meaning given to the term "agency" by section 551(1) of title 5, United States Code;

(2) the term "function" means any duty, obligation, power, authority, responsibility, right, privilege, activity, or program;

(3) the term "transferee agency" means the Office of Controlled Trade with respect to the functions transferred by the respective transferor agency;

(4) the term transferor agency means—

(A) in the case of the functions transferred under section 202(a), the Nuclear Regulatory Commission;

(B) in the case of the functions transferred under section 202(b), the Department of Commerce;

(C) in the case of the functions transferred under section 202(c) the Department of Commerce; and

(D) in the case of the functions transferred under section 202(d), the Department of State.

SEC. 202. TRANSFER OF FUNCTIONS.

(a) There are transferred to the Director the functions which were exercised before the date of enactment of this title by the Nuclear Regulatory Commission under the Atomic Energy Act of 1954 to approve a licenses for the export of any production or utilization facility, or any source material or special nuclear material, including distributions of any material by the Department of Energy under that Act.

(b)(1) There are transferred to the Director the functions which were exercised before the date of enactment of this title by the Department of Commerce under the procedures described in section 309(c) of the Nuclear Non-Proliferation Act of 1978 (42 U.S.C. 2139a(c)).

(2) Notwithstanding any other provision of law, the Director shall, before exercising the authorities transferred under paragraph (1), consult, as required, the Department of Commerce, the Department of State, the Nuclear Regulatory Commission, the Department of Energy, and the Department of Defense.

(c) There are transferred to the Director the functions which were exercised before the date of enactment of this title by the Department of Commerce under sections 5 and 6 of the Export Administration Act of 1979 with respect to the approval of licenses for export of dual-use items.

(d) There are transferred to the Director the functions which were exercised before the date of enactment of this title by the Department of State under section 38 of the Arms Export Control Act with respect to the approval of licenses for the export of defense articles or defense services.

SEC. 203. DETERMINATIONS OF CERTAIN FUNCTIONS BY THE OFFICE OF MANAGEMENT AND BUDGET.

If necessary, the Office of Management and Budget shall make any determination of the functions that are transferred under section 202.

SEC. 204. PERSONNEL PROVISIONS.

(a) APPOINTMENTS.—The head of the transferee agency may appoint and fix the compensation of such officers and employees as may be necessary to carry out the respective functions transferred under this title. Except as otherwise provided by law, such officers and employees shall be appointed in accordance with the civil service laws and their compensation fixed in accordance with title 5, United States Code.

(b) EXPERTS AND CONSULTANTS.—With respect to functions transferred under this title, the head of the transferee agency may obtain the services of experts and consultants in accordance with section 3109 of title 5, United States Code, and compensate such experts and consultants for each day (including travel time) at rates not in excess of the rate of pay for level IV of the Executive Schedule under section 5315 of such title. The head of the transferee agency may pay experts and consultants who are serving away from their homes or regular place of business travel expenses and per diem in lieu of subsistence at rates authorized by sections 5702 and 5703 of such title for persons in Government service employed intermittently.

SEC. 205. DELEGATION AND ASSIGNMENT.

Except where otherwise expressly prohibited by law or otherwise provided by this title, the head of the transferee agency may delegate any of the functions transferred to the head of the transferee agency by this title and any function transferred or granted to such head of the transferee agency after the effective date of this title to such officers and employees of the transferee agency as the head of the transferee agency may designate, and may authorize successive redelegations of such functions as may be necessary or appropriate. No delegation of functions by the head of the transferee agency under this section or under any other provision of this title shall relieve such head of the transferee agency of responsibility for the administration of such functions.

SEC. 206. REORGANIZATION.

The head of the transferee agency is authorized to allocate or reallocate any function transferred under section 202 among the officers of the transferee agency, and to establish, consolidate, alter, or discontinue such organizational entities in the transferee agency as may be necessary or appropriate.

SEC. 207. RULES.

The head of the transferee agency is authorized to prescribe, in accordance with the provisions of chapters 5 and 6 of title 5, United States Code, such rules and regulations as the head of the transferee agency determines necessary or appropriate to administer and manage the functions of the transferee agency.

SEC. 208. TRANSFER AND ALLOCATIONS OF APPROPRIATIONS AND PERSONNEL.

Except as otherwise provided in this title, the personnel employed in connection with, and the assets, liabilities, contracts, property, records, and unexpended balances of appropriations, authorizations, allocations, and other funds employed, used, held, arising from, available to, or to be made available in connection with the functions transferred by this title, subject to section 1531 of title 31, United States Code, shall be transferred to the transferee agency. Unexpended funds transferred pursuant to this section shall be used only for the purposes for which the funds were originally authorized and appropriated.

SEC. 209. INCIDENTAL TRANSFERS.

The Director of the Office of Management and Budget, at such time or times as the Director shall provide, is authorized to make such determinations as may be necessary

with regard to the functions transferred by this title, and to make such additional incidental dispositions of personnel, assets, liabilities, grants, contracts, property, records, and unexpended balances of appropriations, authorizations, allocations, and other funds held, used, arising from, available to, or to be made available in connection with such functions, as may be necessary to carry out the provisions of this title. The Director of the Office of Management and Budget shall provide for the termination of the affairs of all entities terminated by this title and for such further measures and dispositions as may be necessary to effectuate the purposes of this title.

SEC. 210. EFFECT ON PERSONNEL.

(a) IN GENERAL.—Except as otherwise provided by this title, the transfer pursuant to this title of full-time personnel (except special Government employees) and part-time personnel holding permanent positions shall not cause any such employee to be separated or reduced in grade or compensation for one year after the date of transfer of such employee under this title.

(b) EXECUTIVE SCHEDULE POSITIONS.—Except as otherwise provided in this title, any person who, on the day preceding the effective date of this title, held a position compensated in accordance with the Executive Schedule prescribed in chapter 53 of title 5, United States Code, and who, without a break in service, is appointed in the transferee agency to a position having duties comparable to the duties performed immediately preceding such appointment shall continue to be compensated in such new position at not less than the rate provided for such previous position, for the duration of the service of such person in such new position.

SEC. 211. SAVINGS PROVISIONS.

(a) CONTINUNG EFFECT OF LEGAL DOCUMENTS.—All orders, determinations, rules, regulations, permits, agreements, grants, contracts, certificates, licenses, registration, privileges, and other administrative actions—

(1) which have been issued, made, granted, or allowed to become effective by the President, any Federal agency or official thereof, or by a court of competent jurisdiction, in the performance of functions which are transferred under this title, and

(2) which are in effect at the time this title takes effect, or were final before the effective date of this title and are to become effective on or after the effective date of this title,

shall continue in effect according to their terms until modified, terminated, superseded, set aside, or revoked in accordance with law by the President, the head of the transferee agency or other authorized official, a court of competent jurisdiction, or by operation of law.

(b) PROCEEDINGS NOT AFFECTED.—The provisions of this title shall not affect any proceedings, including notices of proposed rulemaking, or any application for any license, permit, certificate, or financial assistance pending before the transferor agency at the time this title takes effect, with respect to functions transferred by this title but such proceedings and applications shall be continued. Orders shall be issued in such proceedings, appeals shall be taken therefrom, and payments shall be made pursuant to such orders, as if this title had not been enacted, and orders issued in any such proceedings shall continue in effect until modified, terminated, superseded, or revoked by a duly authorized official, by a court of competent jurisdiction, or by operation of law. Nothing in this subsection shall be deemed to prohibit the discontinuance or modification of any such proceeding under the same terms and conditions and to the same extent that such proceeding could have been discontinued or modified if this title had not been enacted.

(c) SUITS NOT AFFECTED.—The provisions of this title shall not affect suits commenced before the effective date of this title, and in all such suits, proceedings shall be had, appeals taken, and judgments rendered in the same manner and with the same effect as if this title had not been enacted.

(d) NONABATEMENT OF ACTION.—No suit, action, or other proceeding commenced by or against the transferor agency, or by or against any individual in the official capacity of such individual as an officer of the transferor agency, shall abate by reason of the enactment of this title.

(e) ADMINISTRATIVE ACTIONS RELATING TO PROMULGATION OF REGULATIONS.—Any administrative action relating to the preparation or promulgation of a regulation by the transferor agency relating to a function transferred under this title may be continued by the transferee agency with the same effect as if this title had not been enacted.

SEC. 212. TRANSITION.

The head of the transferee agency is authorized to utilize—

(1) the services of such officers, employees, and other personnel of the transferor agency with respect to functions transferred to the transferee agency by this title; and

(2) funds appropriated to such functions for such period of time as may reasonably be needed to facilitate the orderly implementation of this title.

SEC. 213. REFERENCES.

Any reference in any other Federal law, Executive order, rule, regulation, or delegation of authority, or any document of or relating to—

(1) the head of the transferor agency with regard to functions transferred under section 202, shall be deemed to refer to the head of the transferee agency; or

(2) the transferor agency with regard to functions transferred under section 202, shall be deemed to refer to the transferee agency.

TITLE III—EFFECTIVE DATE

SEC. 301. EFFECTIVE DATE.

This Act, and the amendments made by this Act, shall take effect 180 days after its date of enactment.

By Mr. KASTEN:

S. 3194. A bill to amend provisions of the Federal Deposit Insurance Corporation Improvement Act of 1991 pertaining to small business loans; to the Committee on Banking, Housing, and Urban Affairs.

SMALL BUSINESS LOANS ACT

Mr. KASTEN. Mr. President, I rise today to introduce a bill that will help cut back excessive banking regulation, and reduce the costs that are passed on to small business.

Every time bankers turn around, they are faced with new and complicated rules which force them to spend time and money in order to comply. This cost doesn't disappear; it is passed on to small businesses and individuals who receive loans from the bank.

I want to make it clear that there is a need for some Government regulation, but too often the Government stacks up endless rules and regulations on the shoulders of banks and small businesses without weighing the possible negative effects.

Congress included a provision in the Federal Deposit Insurance Corporation Improvement Act of 1991 [FDICIA] that directed financial institutions to provide bank regulators with information on their small business and small farm lending practices. These reporting provisions will hurt small businesses and farms more than help them.

Most banks would have to reorganize their methods for collecting data on their loan portfolios. Collecting the required annual sales information on small business loans would place a significant burden on small businesses, particularly small family operations. Small farms would also be hurt because of the complexities of establishing annual sales figures for their type of business.

Once banks collect the information, it will have to be processed and calculated at considerable cost. The Government is forcing banks to calculate estimated interest and fee income, as well as estimated charge-offs and net recoveries for different types of loan portfolios. This requires extensive calculations and costs both in time and money. Small business ends up paying for this, and that ultimately means fewer jobs are created by those businesses.

Mr. President, after all of this cost, what are we really getting? The FDICIA disclosure requirements will only provide a partial picture of what is really happening in the small business lending market. Commercial bank lending to small businesses only covers 35 to 40 percent of the total small business lending market. Other lending institutions like finance companies, insurance companies, and venture capital firms are not covered by the disclosure provision. What we're doing in the name of helping small business is directing banks to perform costly functions which will be paid by small business, and Congress will still lack an accurate picture of the small business lending atmosphere. We will be hurting the very small businesses that we are supposed to be helping.

My amendment calls for a report to assess the value of these regulations, and delay the effective date of the disclosure requirements so that the involved agencies can take necessary time to review the results of the report. This review should also include the potential costs to banks of compiling the data, and the availability of lower cost alternatives to obtaining information on credit availability.

Congress has to take more care to consider the side effects of excessive regulations and paperwork on banks and small businesses. Overregulation costs jobs, but job creation is some-

thing we should be trying to encourage. My amendment will help find a better way to get capital to small businesses without hurting banks in the process.

By Mr. GLENN (for himself and Mr. THURMOND):

S. 3195. A bill to require the Secretary of the Treasury to mint coins in commemoration of the 50th anniversary of the United States' involvement in World War II; to the Committee on Banking, Housing and Urban Affairs.

WORLD WAR II 50TH ANNIVERSARY COMMEMORATIVE COINS ACT

• Mr. GLENN. Mr. President, it is my privilege to introduce today the World War II 50th Anniversary Commemorative Coin Act. The measure will require the Secretary of the Treasury to mint coins in commemoration of the 50th anniversary of the United States' involvement in World War II. Proceeds from the sale of these coins will be used to build a World War II veterans memorial in Washington as well as D-Day Memorial in Normandy, France. Legislation to authorize a World War II memorial in the Nation's capital, sponsored by my Ohio colleague Representative MARCY KAPTUR, passed the House on June 22. The bill is currently pending in committee in the Senate where a hearing was held on August 6. The senior Senator from South Carolina, Senator THURMOND, has long championed the World War II memorial in the Senate and I am very pleased to have him as an original cosponsor on this commemorative coin bill.

The House passed a companion commemorative coin bill on June 30. My colleagues will readily understand the urgency of enacting this bill prior to adjournment of the 102d Congress. We have already entered the period designated to commemorate the 50th anniversary of World War II. The Normandy Memorial, which will receive a portion of the proceeds of the sale of these coins, is scheduled to be completed in time for the June 1994 commemoration of D-Day.

I hope that my colleagues, particularly those who have cosponsored the World War II memorial legislation, to join me in providing a funding mechanism for that memorial.•

By Mr. LEAHY:

S. 3196. A bill to amend section 26 of the Act of March 3, 1901, and for other purposes; to the Committee of Commerce, Science and Transportation.

SMALL MANUFACTURERS MODERNIZATION ACT OF 1992

• Mr. LEAHY. Mr. President, the troubles of U.S. manufacturing are by now well rehearsed. Between 1979 and 1990, the United States lost nearly 2 million manufacturing jobs. And we have run a major trade deficit in manufactured goods every year since 1983. In one homegrown industry after another—from TV's, radios and VCR's, to memory chips, silicon wafers and liquid crystal displays, the United States has done the research, created the products and then watched the payoff disappear as our competitors out-produced us. Far too often, we have exported jobs and profits instead of products.

It is well and good to have a strong service sector in this country, but the old-fashioned truth remains that manufacturing is the critical engine of economic growth.

Part of the problem in this country is that too many of our manufacturers have lagged behind their Asian and European competitors in upgrading and modernizing their plant and equipment. Nowhere is this problem more acute than among our small manufacturers—companies with less than 500 employees.

Does small manufacturing really matter to America's competitive strength? Absolutely. There are over 350,000 small manufacturers in the United States representing 98 percent of all U.S. manufacturing companies, employing 35 percent of U.S. manufacturing workers and accounting for over half the value-added in U.S. manufacturing. These companies in my own State of Vermont and throughout the country form the backbone, the infrastructure of our manufacturing base, yet a large majority of them have failed to bring their operations into the modern age. Many of these companies—struggling to keep up with the press of daily business—lack the time and resources necessary to make themselves more efficient and productive.

That is why today I am introducing a bill—the Small Manufacturing Modernization Act of 1992—to help bring small manufacturing up to speed. This bill is designed to complement S. 1330, the broad-based Manufacturing Strategy Act of 1991.

S. 1330, offered by Senators HOLLINGS, GORE, BINGAMAN, NUNN, ROCKEFELLER and many others, is the latest congressional effort to boost U.S. productivity and competitiveness. Despite an administration that for 12 years has resisted anything that carried a thing of industrial policy, Congress, under the leadership of these Senators and others, has made some progress.

In 1986, Congress passed the Federal labs bill to allow Government labs to enter into cooperative research and development agreements with companies, universities and others. That legislation included the substance of my own 1985 technology transfer bill to promote the transfer of technology among universities, businesses, State and local government, regional organizations and non-profits.

As a result of provisions included in the 1988 trade bill, five new manufacturing technology centers have been created as well as a fledgling program to boost State efforts that help small manufacturers modernize. And the Senate this year also passed the Leahy-Thurmond National Cooperative Research Act Extension of 1991 to pave the way for companies to enter joint production ventures.

All of these are important steps. But more needs to be done for U.S. manufacturing and small manufacturers in particular. Look at our competitors. Japan has a nationwide system of 169 consulting and research centers designed to provide research, testing and training for small and mid-sized firms. In fiscal year 1988, the Japanese budget for these centers ["kohsetsushi"] was nearly $500 million. And many European countries are well ahead of us in their support for small manufacturing as well.

Recognizing the needs that still exist, Senators HOLLINGS, GORE and many others have fashioned legislation in this Congress—S. 1330—to boost Federal support for manufacturing both through the development of new, advanced manufacturing technology and through the dissemination of existing manufacturing expertise to smaller firms.

The bill I introduce today is intended to expand upon and provide additional support to one program covered by S. 1330—the State technology extension program run by the National Institute of Standards and Technology.

The principal Federal effort aimed at helping small manufacturers modernize is the manufacturing technology centers program. This is a worthwhile project and it should be expanded. But that program can only do so much. There are five centers now with two more in the works. But there is simply no way that MTC's are going to be able to cover the vast terrain of the American economy.

The STEP program, on the other hand, is designed to bolster State efforts to help local manufacturing. A far-flung system of State manufacturing extension efforts could make a real difference in bringing small manufacturers along.

Some States—like Pennsylvania and Maryland—already have good extension programs up and running. But, in far too many States, technical assistance efforts are fragmented and inadequate, if they exist at all.

The Federal STEP program, meanwhile, has been woefully under funded. It received only $1.3 million in fiscal year 1990 and the same in 1991. Last year, 37 States applied for planning grants, but only 8 could be awarded.

My bill would do the following: It would authorize $10 million in fiscal year 1994 and $12 million in fiscal year 1995 for the STEP program. And it would expand STEP's focus to support State efforts in three specific areas. First, it would call on STEP to support State efforts to disseminate proven, off-the-shelf technologies to small

manufacturers. One of the lessons of the MTC program to date has been that small companies often cannot absorb the latest, most advanced manufacturing technology. What they need to take advantage of are proven technologies such as the use of personal computers for product design. Second, my bill calls on STEP to support State assistance to rural manufacturers in States like my own that are likely to have even fewer sources of technical expertise available to them. Third, my bill calls on STEP to support efforts of small defense manufacturers to convert their production to non-defense purposes.

The effort to renew and revive U.S. manufacturing is first and foremost the job of U.S. manufacturers. Government cannot be the laboring oar. But we can provide some strategic assistance—the kind our competitors have been providing for years—and we are going to have to do that if we intend to rebuild a world-class economy for a new era.●

By Mr. THURMOND:

S. 3197. A bill to improve the administration of bankruptcy estates, and for other purposes; to the Committee on the Judiciary.

FIDUCIARY STANDARDS IN THE ADMINISTRATION OF BANKRUPTCY ESTATES ACT OF 1992

Mr. THURMOND. Mr. President, today I rise to introduce a bill, by request of the Department of Justice, that will enhance the ability of U.S. trustees to properly supervise the increasing number of bankruptcy cases and will strengthen the ability of the Federal Government to combat bankruptcy fraud.

The private trustee has a fiduciary responsibility to administer bankruptcies under chapters 7, 12, and 13. This trustee has broad duties under the bankruptcy code and has a significant obligation to act as a fiduciary by holding funds owed to third parties. The U.S. Trustee Program, within the Department of Justice, supervises and monitors these private trustees to ensure that their actions with regard to the bankrupt estate are proper.

Under current law, this supervision over private trustees is limited. The bill I am introducing today will clarify the authority of the U.S. trustees by requiring private trustees to maintain records and make them available to the U.S. trustees. Further, the bill will also grant the Attorney General the authority to establish the standards for proper administration of bankruptcy cases and would also permit the Attorney General to remove those private trustees who fail to comply with these new standards.

This bill also addresses the increase in schemes that involve fraudulent bankruptcy claims. This bill would create a new bankruptcy fraud offense, similar to the current mail and wire fraud statutes. These changes would strengthen the ability of the Government to prosecute bankruptcy fraud. Currently, unscrupulous parties use the bankruptcy system as a means to obtain merchandise without paying for it, as a delaying technique in improper real estate and other schemes, and to generally avoid creditors. This legislation will enhance the ability of the Government to combat these schemes.

Mr. President, I ask that the full text of this legislation be printed in the RECORD, and I encourage my colleagues to support this bill.

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

S. 3197

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 "Fiduciary Standards in the Administration of Bankruptcy Estates Act of 1992".

SEC. 2. REPORTS TO UNITED STATES TRUSTEES.

(a) CHAPTER 7 TRUSTEE.—Section 704 of title 11, United States Code, is amended—

(1) by inserting "(a) DUTIES.—" before "The trustee";

(2) by striking "and" at the end of paragraph (8);

(3) by striking the period at the end of paragraph (9) and inserting a semicolon; and

(4) by adding at the end the following new paragraph and subsection:

"(10) file with United States Trustee, in the manner and form and at intervals determined by the United States Trustee, such reports concerning the administration of cases as it is the responsibility of the trustee to prepare and copies of such accounts, books, records, and other documents as the United States Trustee may request.

"(b) FAILURE TO PERFORM DUTY.—Upon the trustee's failure to perform the duty described in subsection (a)(10), the United States Trustee may seek an order from the court directing the trustee to perform that duty and imposing a civil penalty of not less than $2,000 and not more than $5,000 for each such failure.".

(b) CHAPTER 11 TRUSTEE.—Section 1106(a)(1) of title 11, United States Code, is amended by striking "704(2), 704(5), 704(7), 704(8), and 704(9)" and inserting "704(2), (5), (7), (8), (9), and (10)".

(c) CHAPTER 12 TRUSTEE.—Section 1202(b) of title 11, United States Code, is amended—

(1) by inserting "(1)" before "The trustee";

(2) by redesignating paragraphs (1), (2), (3), (4), and (5) as subparagraphs (A), (B), (C), (D), and (E), respectively;

(3) in paragraph (1), as redesignated by paragraph (1), in subparagraph (A), as redesignated by paragraph (2), by striking "704(2), 704(3), 704(5), 704(6), 704(7), and 704(9)" and inserting "704(2), (3), (5), (6), (7), (9), and (10)";

(4) in paragraph (1), as redesignated by paragraph (1), in subparagraph (C), as redesignated by paragraph (2), by redesignating subparagraphs (A), (B), (C), and (D) as clauses (i), (ii), (iii), and (iv), respectively; and

(5) by adding at the end the following new paragraph:

"(2) Upon the trustee's failure to perform the duty described in section 704(a)(10), the United States Trustee may seek an order from the court directing the trustee to perform that duty and imposing a civil penalty of not less than $2,000 and not more than $5,000 for each such failure.".

(d) CHAPTER 13 TRUSTEE.—Section 1302(b) of title 11, United States Code, is amended—

(1) by inserting "(1)" before "The trustee";

(2) by redesignating paragraphs (1), (2), (3), (4), and (5) as subparagraphs (A), (B), (C), (D), and (E), respectively;

(3) in paragraph (1), as redesignated by paragraph (1), in subparagraph (A), as redesignated by paragraph (2), by striking "704(2), 704(3), 704(4), 704(5), 704(6), 704(7), and 704(9)" and inserting 704 (2), (3), (4), (5), (6), (7), (9), and (10)";

(4) in paragraph (1), as redesignated by paragraph (1), in subparagraph (C), as redesignated by paragraph (2), by striking "and" at the end; and

(5) by adding at the end the following new paragraph:

"(2) Upon the trustee's failure to perform the duty described in section 704(a)(10), the United States Trustee may seek an order from the court directing the trustee to perform that duty and imposing a civil penalty of not less than $2,000 and not more than $5,000 for each such failure.".

SEC. 3. SUPERVISION OF UNITED STATES TRUSTEES.

Section 586(d) of title 28, United States Code, is amended—

(1) by inserting "(1)" before "The Attorney General";

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

"(2) The Attorney General shall prescribe by rule the standards for proper administration of cases by trustees under chapters 7, 12, and 13 and by standing trustees under chapters 12 and 13.

"(3)(A) In addition to any power that a court may have to remove a trustee in a case under this title, the Attorney General shall have power to remove a trustee if the Attorney General determines that—

"(i) the trustee failed to comply with a regulation prescribed by the Attorney General within a reasonable time after the United States Trustee has served a written demand for compliance upon the trustee; or

"(ii) the assets of an estate being administered by the trustee in the case have been dissipated or are at risk of being dissipated due to the unsafe, unsound, unauthorized, or unlawful practices of the trustee.

"(B) The Attorney General may prescribe regulations to implement subparagraph (A).

"(C)(i) Not later than the date that is 30 days after the date on which a trustee receives written notice from the Attorney General of the trustee's removal under subparagraph (A), the trustee may bring an action for reinstatement in the United States district court for the district in which the case is pending or in the United States District Court for the District of Columbia.

"(ii) Notwithstanding any other law, no court shall have power—

"(I) to enjoin or otherwise affect the removal of a trustee under subparagraph (A) except in an action for reinstatement brought under clause (i); or

"(II) to impair the authority or functions of a successor trustee.".

SEC. 4. DUTIES OF UNITED STATES TRUSTEES.

(a) QUALIFICATIONS OF TRUSTEES.—Section 322(a) of title 11, United States Code, is amended by striking "court" and inserting "United States Trustees".

(b) MONEY OF ESTATES.—Section 345(b) of title 11, United States Code, is amended by inserting "approved by the United States Trustees" after "entity".

SEC. 5. CRIMINAL PROVISIONS.

(a) GENERAL BANKRUPTCY PROVISIONS.—

(1) OFFENSES.—Chapter 9 of title 18, United States Code, is amended—

(A) by amending sections 152, 153, and 154 to read as follows:

"§ 152. Concealment of assets; false oaths and claims; bribery

"A person who—

"(1) knowingly and fraudulently conceals from a custodian, trustee, marshal, or other officer of the court charged with the control or custody of property, or from creditors or the United States Trustee in any case under title 11, any property belonging to the estate of a debtor;

"(2) knowingly and fraudulently makes a false oath or account in or in relation to any case under title 11;

"(3) knowingly and fraudulently makes a false declaration, certificate, verification, or statement under penalty of perjury as permitted under section 1746 of title 28, in or in relation to any case under title 11;

"(4) knowingly and fraudulently presents any false claim for proof against the estate of a debtor, or uses any such claim in any case under title 11, in a personal capacity or as or through an agent, proxy, or attorney;

"(5) knowingly and fraudulently receives any material amount of property from a debtor after the filing of a case under title 11, with intent to defeat the provisions of title 11;

"(6) knowingly and fraudulently gives, offers, receives, or attempts to obtain any money or property, remuneration, compensation, reward, advantage, or promise thereof for acting or forbearing to act in any case under title 11;

"(7) in a personal capacity or as an agent or officer of any person or corporation, in contemplation of a case under title 11 by or against the person or any other person or corporation, or with intent to defeat the provisions of title 11, knowingly and fraudulently transfers or conceals any of his property or the property of such other person or corporation;

"(8) after the filing of a case under title 11 or in contemplation thereof, knowingly and fraudulently conceals, destroys, mutilates, falsifies, or makes a false entry in any recorded information (including books, documents, records, and papers) relating to the property or financial affairs of a debtor; or

"(9) after the filing of a case under title 11, knowingly and fraudulently withholds from a custodian, trustee, marshal, or other officer of the court or a United States Trustee entitled to its possession, any recorded information (including books, documents, records, and papers) relating to the property or financial affairs of a debtor,

shall be fined not more than $5,000, imprisoned not more than 5 years, or both.

"§ 153. Embezzlement against estate

"(a) OFFENSE.—A person described in subsection (b) who knowingly and fraudulently appropriates to the person's own use, embezzles, spends, or transfers any property or secretes or destroys any document belonging to the estate of a debtor shall be fined not more than $5,000, imprisoned not more than 5 years, or both.

"(b) PERSON TO WHOM SECTION APPLIES.—A person described in this subsection is one who has access to property or documents belonging to an estate by virtue of the person's participation in the administration of the estate as a trustee, custodian, marshal, attorney, or other officer of the court or as an agent, employee, or other person engaged by such an officer to perform a service with respect to the estate.

"§ 154. Adverse interest and conduct of officers

"A person who, being a custodian, trustee, marshal, or other officer of the court—

"(1) knowingly purchases, directly or indirectly, any property of the estate of which the person is such an officer in a case under title 11;

"(2) knowingly refuses to permit a reasonable opportunity for the inspection by parties in interest of the documents and accounts relating to the affairs of estates in the person's charge by parties when directed by the court to do so; or

"(3) knowingly refuses to permit a reasonable opportunity for the inspection by the United States Trustee of the documents and accounts relating to the affairs of states in the person's charge,

fund shall be fined not more than $5000 and shall forfeit the person's office, which shall thereupon become vacant."; and

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

"§ 156. Bankruptcy fraud

"A person who, having devised or intending to devise any scheme or artifice to defraud, or for obtaining money or property by means of a false or fraudulent claim, pretenses, promise, or representation, for the purpose of executing or concealing the scheme or artifice or attempting to do so, makes a false or fraudulent claim, pretense, promise, or representation concerning or in relation to a bankruptcy case pending or falsely asserted to be pending under title 11—

"(1) shall be find under this title, imprisoned not more than 5 years, or both; or

"(2) if the offense effects a depository institution (as defined in section 3 of the Federal Deposit Insurance Act (12 U.S.C. 1813)) or a Federal credit union or State credit union (as defined in section 101 of the Federal Credit Union Act (12 U.S.C. 1752)), shall be fined under this title, imprisoned not more than 30 years, or both.".

(2) TECHNICAL AMENDMENTS.—The chapter analysis for chapter 9 of title 18, United States Code, is amended—

(A) by amending the item relating to section 153 to read as follows

"Sec. 156. Embezzlement against estate."

and

(B) by adding at the end the following new item

"Sec. 156. Bankruptcy fraud.".

(b) RICO.—Section 1961(1) of title 18, United States Code, is amended by striking "Section 201" and inserting "section 156 (relating to bankruptcy fraud), section 201".

(c) INTERCEPTION OF WIRE, ORAL, OR ELECTRONIC COMMUNICATIONS.—Section 2516(1)(c) of title 18, United States Code, is amended by inserting "section 156 (relating to bankruptcy fraud)", before "section 201".

By Mr. THURMOND:

S. 3198. A bill for the relief of Horace Martin; to the Committee on the Judiciary.

RELIEF OF HORACE MARTIN

Mr. THURMOND. Mr. President, I rise today to introduce a bill for the relief of Horace Martin, a resident of South Carolina. In addition, I am also introducing a resolution so that this claim may be considered by the U.S. Claims Court.

Mr. President, the facts of this case are simple. Mr. Martin purchased property at a tax sale conducted by the Internal Revenue Service. Before deciding to make this purchase, Mr. Martin claims he relied upon the statements of an IRS agent and IRS forms which declared that there were no liens on the property that were senior to the IRS liens. Mr. Martin was the successful bidder, and he purchased the property for $56,000. He was later informed that the property he had purchased was subject to other liens, and that foreclosure was eminent. The effect of these prior liens was that Mr. Martin paid $56,000 and received no interest in the property. Mr. Martin has requested that the IRS return his money, but the request has been challenged by the United States on the grounds that the IRS documents stated that a purchaser should not rely on the statements of the IRS personnel.

Because Mr. Martin is bringing a contract claim against the United States, the proper forum for his claim is the United States Claims Court, not the district court. Accordingly, Mr. Martin has filed a claim against the United States in the claims court, and this claim has currently been stayed. Mr. Martin has been informed by the court that in order for the claims court to hear his claim in equity, a Congressional Reference is necessary.

Mr. President, our laws permit any bill to be referred by either House of Congress to the claims court for a report on the merits of this claim. Therefore, I am introducing this private relief bill and corresponding reference so that Mr. Martin's claim may be considered. I would note that by introducing this bill and resolution, I am not asserting the validity of his claim. That issue is for the court to determine. I am merely introducing this bill and resolution so that the claims court will have the opportunity to hear Mr. Martin's claim in equity.

I would encourage my colleagues to support this resolution.

By Mr. KASTEN:

S. 3199. A bill to require Federal funding for any Federal requirement applicable to a State or local government; to the Committee on Governmental Affairs.

FINANCIAL ASSISTANCE FOR COMPLIANCE ACT

Mr. KASTEN. Mr. President, I rise today to introduce legislation that would address the unfairness that we in the U.S. Congress inflict upon our constituents and the local and State governments that we represent.

This unfairness consists of Federal mandates—requirements placed upon our cities, counties, and States, but lacking any Federal funding to go along with our supposedly good ideas.

When I met with the Wisconsin Counties Association, their primary complaint was that the Federal Govern-

ment is causing havoc at the local level with the imposition of unfunded mandates. The counties contend that their ability to meet local needs and problems is hampered when local plans are supplanted by required Federal programs.

In an excellent article on this situation in the New York Times, Michael deCourcy Hinds pointed out that in 1990 alone, the Federal Government passed 20 bills requiring various programs that the National Conference of State Legislatures estimates will cost America's State and local governments billions of dollars.

I ask that a copy of that article from March 24, 1992, be printed in the RECORD immediately following my remarks.

I am not saying these programs aren't well-intentioned. The problem is that they simply don't realize one basic fact: The fiscal crunch that we are experiencing at the Federal level is just as severe—and in some cases worse—at the other levels of government.

Passing the buck is no way to solve a problem.

As in the budget debate, there is enough blame to go all around. In the New York Times article, Gov. John Engler of Michigan is quoted as blaming Congress for "wrecking" State budgets, while others blame the President. Well, we all share the blame, and it is time that we do something about it.

President Bush said in his State of the Union Address that if Congress passes a mandate, then we should be forced to pay for it and balance the cost with savings elsewhere.

This echoes what I hear from Wisconsin's cities and counties, and our State government in Madison. We need to start being fair to the hard-working local governments who are trying to solve problems close to the people.

That's what this legislation is all about. It would require that public entities comply with Federal mandates only to the extent that Federal funds are supplied to cover the cost of the mandates.

Mr. President, pay-as-you-go is a solid principle of government. This amendment will require some tough choices, but that is what we are here for.

I ask that a copy of the bill be printed in the RECORD.

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

S. 3199

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 "Financial Assistance for Compliance Act".

SEC. 2. COMPLIANCE ASSISTANCE.

Notwithstanding any other provision of Federal or State law, a public entity, as defined in section 201(1) of the Americans With Disabilities Act of 1990 (42 U.S.C. 12131(1)), shall be excused from compliance with a requirement of Federal law in a fiscal year for which the entity—

(1) fails to receive Federal financial assistance to carry out the requirement; or

(2) receives such assistance, to the extent that the assistance is insufficient to permit the entity to comply with the requirement.

[From the New York Times, March 24, 1992]

U.S. ADDS PROGRAMS WITH LITTLE REVIEW OF LOCAL BURDENS

(By Michael deCourcy Hinds)

Against the background of a stubborn recession and mounting fiscal distress in the country, the Federal Government continues to create or expand domestic spending programs with little or no review of the financial burdens they will place on state and local governments, public policy analysts say.

In 1990 alone, the year the recession began, President Bush signed 20 bills into law, ordering programs that the National Conference of State Legislatures says will cost state and local governments billions of extra dollars, primarily for health care, the environment and Social Security payments for public employees.

Some mandates, like the Americans With Disabilities Act, were enacted without any reliable estimates of the cost to state and local governments. The legislation, which requires businesses and state and local governments to provide the disabled with equal assess to services, employment, buildings and transportation systems, is now expected to cost them millions of dollars annually to comply.

HEALTH AND ENVIRONMENT

The most expensive regulations for any state involve Medicaid, the Federally-subsidized health-care program for low-income people that will cost $38.3 billion for the states to finance this year. The next most expensive mandates involve environmental laws, primarily water purification, which will cost state and local governments $32 billion a year by 1995.

And three new studies show that despite the publicized efforts of President Ronald Reagan and President Bush to decentralize government, both contributed to a proliferation of regulations that meant enormous costs to states and cities in the 1980's.

No one can reliably estimate the cost of complying with many such programs, and Congress is required to make only preliminary estimates on some of the bills it considers. But analysts say no Federal law provides for complete reimbursement of any mandated program, and some legislative analysts estimate the burden to local governments of such spending at scores of billions of dollars a year.

'ROCK AND A HARD PLACE'

"We are between a rock and a hard place," said Gov. Robert P. Casey of Pennsylvania, a Democrat.

As part of a plan to pay for newly mandated Federal health benefits for children, pregnant women and the elderly, Governor Casey has proposed eliminating some medical benefits for disabled men who currently receive state welfare grants. The state raised taxes by a record $3.3 billion this fiscal year and still must reduce spending by $800 million to balance a $14.2 billion budget.

Pessimism is widespread. Three-quarters of the states and more than a third of the nation's cities report worsening fiscal problems this year, and many governors and mayors are saying the problems will linger or worsen over several years even if the economy recovers quickly.

"I think we're headed for a showdown," Gov. John Engler of Michigan, a Republican, said in a recent interview in which he blamed Congress for "wrecking" state budgets. But analysts and other governors blame Mr. Bush. Last month, when the President met with the National Governors Association, their meeting turned into an arguing match.

At that meeting, on Feb. 3 in Washington, two Democratic governors, Roy Romer of Colorado and George Sinner of North Dakota, attacked the President, asserting that too much money was going to the military and too little to the states. "What bases do you want to close?" Mr. Bush asked testily.

Only a month earlier, Mr. Bush seemed to be more sympathetic to the plight of the state and local governments. In January, in Mr. Bush's State of the Union Message, he sought to lay responsibility for mandates on Congress and advocated curbs on spending.

BUSH ON MANDATES

"We must put an end to unfinanced Federal Government mandates," Mr. Bush said. "These are the requirements Congress puts on our cities, counties and states without supplying the money. And if Congress passes a mandate, it should be forced to pay for it and balance the cost with savings elsewhere."

In an earlier effort to give the states more flexibility in administering Federal mandatory programs, Mr. Bush last year proposed to consolidate $15 billion in financing for block grants and to leave the decision on how to spend the money up to the states. But many cities opposed the legislation and it died in Congress. Mr. Bush said last week that he planned to revive the proposal.

Nevertheless, analysts say the President has done little to curb the flow of Federal mandates. Nor, they assert, has he acted to provide more financing for those bills he has signed into law.

'ZERO LEADERSHIP'

"President Bush has provided zero leadership in this area of nation-state relationship," said Joseph F. Zimmerman, professor of political science at the State University of New York in Albany and the author of two new studies on the relationship between the states and the Federal Government.

"You can't point to a single bill where he took leadership to give states more freedom of action, or for that matter, where he sought to impose mandates on states," he said. "In a sense, it is as though President Bush has just been oblivious" to this whole area until he mentioned it in the State of the Union Message."

Last January Mr. Bush ordered a 90-day moratorium on new regulations by Federal agencies and a review of existing rules to identify those that appear to do more economic harm than good. That proposal, modeled after a strategy that he carried out as Vice President in the Reagan Administration, was aimed mainly at lightening the burden for businesses.

But a new study says that whatever the impact on businesses, the deregulatory effort was "largely ineffective." It said the Government ultimately passed on more significant regulatory burdens to state and local Governments during the 1980's than in almost any other decade, adding to their financial responsibilities.

The study, "Federal Regulation of State and Local Governments," is being prepared

for publication later this year by the United States Advisory Commission on Intergovernmental Relations, a Federally chartered research organization in Washington.

NO CHANGE IN SIGHT

"Congress was the more active regulator than either the Reagan or Bush Administration, but none of the laws with mandates were enacted over Presidential veto," said Timothy J. Conlan, a professor of government and politics at George Mason University. Prof. Conlan and two colleagues, David R. Beam and Cynthia Colella, wrote the study.

Prof. Conlan and his colleagues said they foresee no lightening of this burden for state and local governments.

The candidates in the contests for the Republican and Democratic Presidential nominations have made Federally mandated programs an issue in their campaigns.

President Bush's challenger for the Republican nomination, Patrick J. Buchanan, has advocated a two-year moratorium on new mandates and a reappraisal of existing ones.

The Democratic front-runner, Gov. Bill Clinton of Arkansas, says the Government is creating too many inflexible and costly programs that reduce the states' ability to cope with social and financial problems they consider more pressing.

Of the 125 mandate-laden bills that have been introduced in Congress this session, more than half deal with health care and criminal justice, which are the two fastest growing segments of state budgets, said Martha A. Fabricius, a policy analyst with the National Association of State Budget Officers who has been monitoring this legislation. She said that more than 20 of the most expensive bills had been introduced by the Democratic leadership.

If enacted, the bills would force most states to raise taxes or reduce existing services, analysts said.

Under some of the bills, the states would be directed to pay all or some of the cost of new programs like insuring savings and loan associations, planting trees on state-owned land, operating mobile units to assist the mentally ill among the homeless and increasing prison terms for several categories of violent crimes.

The states would also be ordered to eliminate at least one revenue-producing program, a tax on certain retirement income, forcing them to find other ways to finance government.

While the Government has expanded Federally mandated programs and whittled away at state and local tax revenues, it simultaneously has reduced aid to the states.

In the 1980's, for example, overall Federal aid declined 10 percent, when adjusted for inflation, and grants that were not related to health care declined 23.6 percent, according to Government figures. There are no estimates on the loss in tax revenue to the states.

HISTORICAL SHIFT

The expansion of Federal authority over state affairs represents an historic shift in American Government since the 1960's, according to Prof. Zimmerman:

"Congress, with the acquiesence of the Supreme Court, is slowly usurping the sovereign powers of states and turning them into administrators of national policy," he said, summarizing a central conclusion in two studies he wrote for the Advisory Commission on Intergovernmental Relations. The studies, scheduled for publication this year, are entitled "Federal Pre-emption of State and Local Authority" and "Federally Induced State and Local Governmental Costs."

In all, there are estimated to be tens of thousands of Federal mandates and they touch nearly every aspect of government. There are mandates that instruct states or local governments on landfills, welfare benefits, speed limits, other traffic regulations and prison construction, among other things.

NEW YORK STORIES

Federally required health-care programs consumed 14 percent of all state budgets in 1990 and, with the cost of expansions in mandated programs and inflation in medical expenses, The Federal programs will devour 28 percent of the states' budgets by 1995, the National Governors Association estimates.

Examples of the costs that can result from these mandates are best seen in populous states like New York. Ever stricter standards for drinking water may cost the city billions; a $600 million water filtration plant is already under construction in the Bronx. School districts in New York and surrounding counties have spent tens of millions of dollars removing asbestos from school buildings. Congress, in passing the measure in 1986, never considered its cost to state and local governments; it is now projected at $3.1 billion over 30 years.

Members of Congress who develop mandatory programs readily acknowledge that the programs can be a crushing financial burden for state and local governments. The legislators say there will be no alternative to this piecemeal approach until the President and Congress can agree on national solutions to national problems including taxes, health care, welfare and environmental issues.

FEDERAL FINANCING

"It's incumbent on us to realize that the states can't continue to pay for Medicaid, which is a complicated, second-class healthcare system for less than half of the poor people in the country," said Representative Henry A. Waxman, a California Democrat who is chairman of the House Subcommittee on Health and the Environment and the author of a number of Medicaid mandates.

"We need to have major reform in either Medicaid or in the whole system, but we simply can't let pregnant women, infants and children go without health care," said Mr. Waxman, who has said the Federal Government should be responsible for financing Medicaid.

Mario M. Cuomo of New York was the nation's only governor who supported the Medicaid mandates for new programs for poor children and pregnant women in the last two years.

Brad C. Johnson, Governor Cuomo's counsel in Washington, said that providing the additional medical care to women and children cost New York $3.8 million last year, while the state had to spend $828 million to put 100,000 newly eligible people into nursing homes.

'GOOD INVESTMENT'

"He didn't go along with the other 49 governors because he said the mandates for women and children were a good investment," Mr. Johnson said.

Good investment or not, the state is now trying to decide how to cut $1 billion out of its Medicaid and welfare programs because of budget problems.

By Mr. KERREY (for himself, Mr. DURENBERGER, Mr. PRYOR, Mr. EXON, Mr. DASCHLE, Mr. BURDICK, Mr. HARKIN, and Mr. GRASSLEY):

S. 3202. A bill to amend the Agricultural Act of 1949 to improve the farmer owned reserve program, and for other purposes; to the Committee on Agriculture, Nutrition and Forestry.

FARMER OWNED RESERVE IMPROVEMENTS ACT

Mr. KERREY. Mr. President, today I am joined by Senators DURENBERGER, PRYOR, EXON, DASCHLE, BURDICK, HARKIN, CONRAD, WELLSTONE and GRASSLEY in introducing the Farmer-Owned Reserve Improvement Act of 1992.

This legislation would improve the operation of the Farmer-Owned Reserve, [FOR] by once again allowing direct entry of grain into the Reserve and by providing the Secretary of Agriculture additional authority to open the Reserve to wheat or feed grains during periods of low prices.

The intent of this legislation is to reverse the damage to the Farmer-Owned Reserve [FOR] that was inflicted by the Food, Agriculture, Conservation, and Trade Act of 1990—the 1990 Farm Bill. Those changes were advocated by those whose hostility toward the FOR at that time was no secret and whose desire to undermine the FOR as a fundamental farm policy tool has marked USDA policy for much of the past 12 years.

I do not suggest that all of the FOR modifications made by the 1990 Farm Bill were wrong. To the contrary, I believe some of the changes improved the operation of the FOR by giving farmers greater freedom to market grain from the Reserve, by generally making the Reserve more responsive to market conditions, and by preventing the Reserve from swelling to the excessive levels that characterized periodic mismanagement of the Reserve during the 1980's.

One FOR revision that I supported and in fact sponsored in 1990 was a provision that for the first time gave farmers the unilateral ability to market their grain from the FOR at will—even before grain prices reached established levels at which farmers were induced to sell grain. Prior to this change, farmers were prohibited from pulling grain from the Reserve until specified "release" prices were reached. This proved unreasonably restrictive in cases where, for example, farmers suffered a natural disaster that destroyed crops in the field but were denied access to Reserve grain in order to meet critical local needs for livestock feed.

Other changes that I supported in 1990 were moves to establish reasonable minimum and maximum levels governing the size of the Reserve, limits on how long individual farmers could leave grain in the Reserve, and provisions intended to encourage the gradual, orderly marketing of grain as prices strengthened.

But clearly some of the FOR changes made by the 1990 Farm Bill rendered the Reserve ineffective. One change forced farmers to keep grain under

original, 9-month price support loans before that grain could be placed in the FOR under an extended loan. Another change forced the Secretary to decide early in the marketing year—by December 15 in the case of wheat and by March 15 in the case of feed grains—whether the previous harvest would be eligible for the Reserve. As we have witnessed during this summer's steady slide in corn prices, this provision, and the Secretary's decision earlier in the year not to allow 1991-crop corn into the FOR, has foreclosed the option of reassessing that decision as warranted by changing market conditions. These deadlines have proven too rigid, too arbitrary, and too restrictive of the Secretary's authority. This bill would eliminate these artificial dates and give the Secretary greater authority to allow Reserve entry according to market developments.

Mr. President, across the Midwest and the Great Plains, corn prices are falling below $2 per bushel and wheat prices are slipping under $3. Farmers' hopes are sagging with them. Producers see little prospect that exports will prove their salvation, and recent decisions by USDA to reaffirm the lifting of planting restrictions for next year's crop of wheat and to propose minimal restrictions for the 1993 crop of feed grains offer little prospect that restraints on production will bolster prices. That leaves farmers with only two possibilities for a brighter future: natural disasters visited upon someone else, or more thoughtful management of existing stocks. The FOR revisions we are offering today propose the latter

I should make clear, Mr. President, that in my view nothing in this legislation entails additional costs to the taxpayer. Indeed, it is my hope that enactment of this bill and the immediate entry of grain into the Reserve will strengthen the grain market and thereby reduce government costs as direct income support payments to farmers decrease.

Finally, I wish to emphasize, Mr. President, that all the changes made by this bill are permissive. Nothing in this proposal forces the Secretary's hand. The bipartisan nature of this proposal attests to the fact that it is fair, reasonable, and necessary. In that spirit, I am hopeful that Secretary Madigan will examine this measure with an open mind, agree that it empowers him to offer a life line to farmers awash in grain, and conclude that it deserves the administration's support.

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

S. 3202

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 "Farmer Owned Reserve Improvements Act of 1992".

SEC. 2. FARMER OWNED RESERVE PROGRAM.

(a) ORIGINAL LOANS.—Paragraph (1) of section 110(b) of the Agricultural Act of 1949 (7 U.S.C. 1445E(b)(1) is amended to read as follows:

"(1) PRICE SUPPORT LOANS.—In carrying out this program, the Secretary may provide original or extended price support loans for wheat and feed grains. Subject to paragraphs (2) and (3) of subsection (g), producers may enter wheat or feed grains into the program when an original loan is granted or before the expiration of the original loan.".

(b) TIME OF ANNOUNCEMENT.—Paragraph (1) of section 110(g) of such Act is amended to read as follows;

"(1) TIME OF ANNOUNCEMENT.—The Secretary may announce the terms and conditions, and any subsequent revisions, of the producer storage program for a crop of wheat and feed grains at any time.".

(c) DISCRETIONARY ENTRY.—Section 1109(g)(2) of such Act is amended—

(1) in subparagraph (A)—

(A) by striking ", respectively, for the 90-day period prior to the dates specified in paragraph (1)"; and

(B) by striking "or" at the end; (2) in subparagraph (B)—

(A) by striking "as of the appropriate date specified in paragraph (1),"; and

(B) by striking the period at the end and inserting "; or"; and

(3) by adding at the end of the following new subparagraph:

"(C) the Secretary determines that unforeseen market a conditions warrant the entry of wheat or feed grains into the program established under this section.".

(d) DISCRETIONARY EXIT.—Section 110(h) of such Act is amended by striking "a loan extended" and inserting "an original or extended loan".

(e) REGULATIONS.—Section 110(n) of such Act is amended by inserting before the period at the end the following: "and each amendment to this section not later than 60 days after the date of enactment of the Act making the amendment".

(f) CROPS.—Section 110(p) of such Act is amended by inserting before the period at the end the following: "and each amendment to this section shall become effective on the date of enactment of the Act making the amendment".

Mr. DURENBERGER. Mr. President, I rise in support of this bill. It is an important piece of legislation that will bring stability to corn and wheat prices and to the rural communities that rely on them.

Since the beginning of this year, prices paid to farmers for corn have plummeted. The result has been devastation for farmers and rural communities. In Minnesota, our corn prices have fallen nearly 30 percent in the past 6 months, from $2.50 per bushel in February to $1.85 per bushel in August. Similar drops in corn prices have occurred throughout the country—and wheat prices are not much better. In the face of these tragic drops, farmers only have the harsh reality of a record harvest to look forward to. A bumper crop of 9 million bushels has been predicted for the 1992 corn crop. This will cause corn prices to drop even further and force farmers off the farm.

Mr. President, the 1990 Farm Bill made some good strides forward in America's agricultural policy, however, it is not perfect and revisions need to be made. Much of the Senate has already gone on record in favor of reforming the Dairy Program. Similarly, modifications need to be made to the Farmer Owned Reserve in order for it to work better both for farmers and for the country. The Kerrey/Durenberger bill to reform the Farmer Owned Reserve makes those modifications.

The Kerrey/Durenberger bill would permit the Secretary of Agriculture to make revisions to the structure of the Farmer Owned Reserve at any time during the year in order to better deal with surplus stocks of wheat and corn. Currently the Secretary must decide whether or not to open up the Farmer Owned Reserve for wheat on December 15 and corn on March 15. Once that decision is made, it cannot be changed—regardless of what the best policy is for farmers and the country. In my view, the Secretary has the administrative authority to make these changes himself. I wrote him on August 6, 1992, and requested that he make this administrative decision. However, this bill makes it clear to the Secretary, and to everyone else, that the Farmer Owned Reserve must be reflective of the situation on farms in rural America and the Secretary must administer it in that manner. Under the Kerrey/Durenberger bill, the Secretary would not be locked into a bad decision on the Farmer Owned Reserve.

Action must be taken now to protect farmers from bankruptcy and rural communities from further economic hardship. It seems that everything that is needed to run a farm—gasoline, machinery, health insurance, fertilizers—keeps going up; and the only things that keep going down are the prices farmers get for their crops, and farmer's quality of life.

The Kerrey/Durenberger reform bill empowers the Secretary in a very direct way to make the decisions on the Farmer Owned Reserve that need to be made. It is a good bill and good public policy. I urge my colleagues to join me in support of it.

I ask unanimous consent that a letter dated August 6, 1992, to Secretary Madigan be printed in the RECORD.

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

U.S. SENATE,
Washington, DC, August 6, 1992.

Hon. EDWARD MADIGAN,
Secretary, U.S. Department of Agriculture, Washington, DC.

DEAR ED: I am writing to urge you to reserve your decision of March 15, 1992 and open up the Farmer Owned Reserve (FOR) for the 1991 corn crop.

Prices paid to farmers for corn have plummeted since the beginning of 1992. The result has been devastation for farmers and rural communities. In Minnesota, crop prices have fallen from $2.50 per bushel in February to $1.85 per bushel in August. Similar drops in corn prices have occurred throughout the

country. A record harvest of nine billion bushels has been predicted for the 1992 crop. This would cause corn prices to drop even further, and would force producers off the farm.

Action must be taken now to protect farmers from bankruptcy and rural communities from further economic hardship. As Secretary of Agriculture, you have the administrative authority to reverse your March decision regarding the Farmer Owned Reserve program.

American corn farmers need your immediate attention to this matter. Your interest and concern is greatly appreciated. I look forward to hearing from you soon.

Sincerely,

DAVE DURENBERGER,
U.S. Senator.

By Mr. BAUCUS:

S. 3203. A bill to prohibit senior Presidential campaign staff members from engaging in political activities as agents of foreign principals; to the Committee on Governmental Affairs.

POLITICAL ACTIVITIES BY SENIOR CAMPAIGN OFFICIALS ON BEHALF OF FOREIGN PRINCIPALS

Mr. BAUCUS. Mr. President, I rise today to introduce legislation to prohibit senior Presidential campaign officials from lobbying for foreign interests.

On two recent occasions, I have taken to the floor to discuss foreign influence in the U.S. political process. I believe this issue represents one of Washington's biggest scandals. It cuts to the heart of both the competitiveness of our economy and integrity of our political system.

THE PROBLEM OF FOREIGN INFLUENCE

The problem of foreign influence is apparent in numerous areas of our Government. In one of this town's most common career paths, high-ranking public officials routinely log a couple of years in so-called "public service," then cash-in their connections to the highest bidder.

Often, the highest bidder is a foreign government or business. In case after case, the U.S. Government has become a farm team for foreign influence. We've seen this problem at all levels of government—State and national congressional and executive.

U.S. laws governing lobbying for foreign interests need fundamental reform. Statutes such as the Foreign Agents Registration Act have milewide loopholes that rend them impotent.

We also need to slam the revolving door. I have advocated a 15-year ban on lobbying by former senior Government officials, including Senators, Congressmen, Governors, and Executive positions such as USTR.

Several bills introduced by colleagues in both the House and the Senate suggest potential steps in the right direction.

THE SPECIAL CASE OF PRESIDENTIAL CAMPAIGNS

But there is another area that is also in need of immediate attention—the Presidential campaigns. Campaigns occupy a murky position in the law. Although they receive public funds, they are not Government entities.

Senior campaign officials also occupy a murky station. Although they may not be Government officials, they have easy access to senior Government policy makers. And although they may devote most of their time to a campaign, they may also be on the payroll of foreign interests.

There is one recent case that I believe is a disturbing example of the abuse the current system makes possible.

On January 9, 1992, James Lake assumed the position of senior communications adviser to the Bush campaign. Mr. Lake is a longtime Republican campaign official and once served in an earlier administration.

Mr. Lake also wears a second hat. He is a name partner in the public relations firm of Robinson, Lake, Lerer and Montgomery, one of the most influential lobbying firms in Washington.

At the time, Mr. Lake accepted his position with the Bush campaign, he could have suspended his lobbying activities on behalf of his Robinson Lake clients. Indeed, given the potential for conflict of interest, it's hard to imagine any other course of action.

But that's not the course selected by Mr. Lake. Instead, on February 4, 1992, a month after assuming a post with the Bush campaign, Mr. Lake added a new client to his stable. He accepted a $400 an hour hitch as a registered foreign agent for the Canadian Forest Industries Council. The Council is involved in a trade dispute with the U.S. forest products industry, and desperately needed some Washington insiders to turn things around.

I ask unanimous consent that Mr. Lake's registration papers with the Department of Justice be added to the RECORD.

On March 6, 1992, the U.S. Commerce Department made a preliminary decision to impose a 14.5 percent duty on Canadian lumber to compensate for unfair subsidies in that country. Mr. Lake's client was in deep trouble.

Ignoring the obvious conflict of interest, Mr. Lake—by his own admission—used his influence as a top campaign official to set up meetings for the Canadians with senior administration officials.

On May 15, 1992, the Commerce Department reduced the punitive duty on Canadian lumber from its preliminary level of 14.5 to 6.5 percent.

We will never know the degree to which Mr. Lake's activities influenced the reduction in the tariff. But I will tell you one thing. The Canadian Forest Industries Council believes Mr. Lake is worth $400 an hour. They think they are getting their money's worth. At the very least the appearance of impropriety is overwhelming.

I ask unanimous consent that a number of documents describing Mr. Lake's activities be made part of the RECORD at the conclusion of my remarks.

Unfortunately, the Canadian Forest Industries Council is not Mr. Lake's only foreign client. During and before holding his post in the Bush campaign, Mr. Lake has represented a number of foreign clients, including a major Japanese auto company and Canadian brewers.

As a number of documents I ask be included in the RECORD demonstrate, Mr. Lake has been involved in similar influence peddling with a number of foreign interests.

On June 25, I called upon the Bush campaign to fire James Lake. Unfortunately, it appears that Mr. Lake's job is secure.

LEGISLATIVE SOLUTION

Today I am introducing legislation to make sure that individuals like Mr. Lake cannot line their pockets at the expense of the integrity of the U.S. political process.

My legislation has two key components. First, it prohibits senior campaign officials of any presidential candidate from lobbying for foreign interests during their tenure as campaign officials.

Second, for senior campaign officials of a successful candidate, my legislation prohibits lobbying for foreign interests for a period of 15 years. Such a cooling off period will help shut the revolving door. Senior campaign officials will no longer be able to tap their insider connections for the benefit of deep-pocket foreign interests.

A violation of these limits would result in criminal sanctions.

CONCLUSION

It is no secret that Americans are frustrated and disillusioned with Washington. No wonder. Actions such as those by James Lake confirm the public's worst suspicions about influence peddling in Washington.

Nor is this a partisan matter. With or without my legislation, I call upon both campaigns to ensure that their senior officials do not use their public positions to promote the agendas of their private sector clients.

This is a small part of a big problem. In the end, legislated loyalty is a poor substitute for honest conviction in support of public service.

But until such conviction occurs as a matter of course, a legislated solution may be our only alternative.

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

[From the Journal of Commerce, June 24, 1992]

BUSH CAMPAIGN AIDE DENIES IMPROPRIETY

(By John Maggs)

WASHINGTON.—James Lake, one of President Bush's top campaign aides, said he has become the focus of a "well orchestrated"

witch hunt in recent weeks, one driven by the campaign of Ross Perot and intent on showing that he peddled influence in the government on behalf of foreign companies.

Mr. Lake, deputy manager for the re-election campaign, defended his role as a lobbyist in two major trade disputes—on lumber and minivans—and said reporters have been calling friends and colleagues over the last five weeks to "dig up dirt" on him.

Mr. Lake insisted that neither he nor his high profile public relations company—Robinson Lake, Lehrer and Montgomery—had lobbied the White House on behalf of Canadian lumber producers. He admitted that he had made one telephone call to Bush domestic policy adviser Clayton Yeutter to set up a telephone call to plead the Canadian case.

That call will be reported to federal authorities in a disclosure statement that Mr. Lake said he would file shortly.

In the lumber dispute, the International Trade Commission is expected to rule Thursday on whether Canada has unfairly subsidized its exports to the United States. Sen. Max Baucus, D-Mont., among others, has claimed that the Canadian industry has spent $20 million in the United States lobbying the case. The lawmaker said it is part of a disturbing rise in improper foreign influence through lobbyists with White House ties and former U.S. officials.

Mr. Lake was also criticized Tuesday by former Customs Commissioner William Von Raab as playing a central role in a 1989 Treasury Department decision that maintained low tariffs on Japanese minivan imports. Mr. Von Raab called that decision "the most unfair and politicized" example he knew of "foreign influence at high levels" of the Bush administration. He said Mr. Lake and his associates were responsible.

Mr. Lake said that reporters for the Chicago Tribune were planning an article on foreign lobbying in the Bush administration, and he said he believed that the Perot campaign was behind the story. While Mr. Lake said he had no proof of this assertion, he noted that Perot's campaign spokesman is James Squires, former editor of the newspaper. Calls to Mr. Squires were not returned Tuesday.

Tribune reporter Chris Drew denied that Mr. Squires was in any way involved in the story.

Mr. Lake, whose lobbying has been the subject of news reports in the past, said that the criticism is an attempt to stifle legitimate debate. "There is a body of opinion that believes we should hear only one side of the story. When we as a country start to limit what people have to say in that way, the next step is to limit what is liberal, what is conservative, what is pro-choice. That's not democracy."

The Bush campaign official said there was "nothing at all improper" about his using his contacts at the White House on behalf of clients, noting that as a campaign official he was not covered by laws limiting such activities by present and former administration officials.

In the 1989 minivan case, Mr. Von Raab said that Customs officials had decided that minivans and sport utility vehicles should be considered trucks, thus raising the tariff from 2.5% to 25%. After Customs announced the decision at a press conference, he said lobbying by Mr. Lake and his associates persuaded Treasury Secretary Nicholas Brady to suspend that decision.

Mr. Von Raab said the decision to overturn the Customs ruling was "entirely without merit" and he described Treasury Department subordinates as wringing their hands afterward and scrambling to fabricate an explanation for the action. "It took them a month to come up with the tortured explanation they came up with," the former Customs commissioner said.

WASHINGTON'S REVOLVING DOOR

(By Pat Choate)

The revolving door is only one of several ways that Japanese and other foreign interests acquire personal ties to the Office of the U.S. Trade Representative. They also maintain important connections through political insiders. For instance, Stanton Anderson was a senior White House and State Department official in the 1970s. Subsequently, he became one of Japan's top lobbyists. After the 1980 election, he directed the economics portion of the transition team that staffed the Reagan Administration.

In July 1985, after Clayton Yeutter was named USTR, lobbyists with foreign ties were responsible for organizing and staffing the USTR's Office. The three-person transition team consisted of Julius Katz, James Lake, and William Walker. At the time, Katz was an international business consultant. Lake, a prominent Republican lobbyist, had been press adviser to Reagan's 1984 campaign (as he had been in 1976 and 1980, and would be for George Bush in 1988). Walker, another well-known lobbyist, was President Ford's Deputy USTR. Less than a month after the Republicans regained the White House in 1981, Walker had registered as a foreign agent. Among the clients he subsequently represented were Toshiba, the Electronics Industries Association of Japan, the Hong Kong Trade Department, the Korea Iron and Steel Association, the China National Textiles Import & Export Association, and the Japan Aluminum Federation.

In mid-1985, the Katz-Lake-Walker team took up their task, identifying the people Yeutter would appoint to senior policy posts. They interviewed those individuals who already held high negotiating and staff positions. They proposed a reorganization of the Office that would have eliminated virtually all these people, many of whom were hardliners on Japan, but the White House vetoed this controversial move. In the meantime, the team got an intimate look at the innermost thinking, strategy making, and vulnerabilities (e.g., personnel conflicts) of America's top trade agency.

One former employee at USTR recalls: "The way the transition was handled was very uncomfortable for all of us. We knew that their decisions would affect our careers. Because of their friendship with Clayton, we also knew that we would be forced to see these lobbyists again many times after the transition was over." How right he was.

Walker minimized the benefits of having served on the Yeutter transition team. He told the Baltimore *Sun* that it "was 'irrelevant' to any dealings I might have with the Trade Office. I've had access to Clayton for five years. Sure it's an advantage. . . . As with anything in Washington, if you know people it's easier to do business with them."

By contrast, Lake spoke with the Washington *Post's* Stuart Auerbach in 1986 about the advantages of his access to Yeutter: "The Japanese sought me out. Did I think it was odd? No. They knew I was a friend of Clayton Yeutter. The Japanese work very hard to figure out who has access and who can communicate their views." The views he chose to communicate were those of Mitsubishi, Suzuki, the Japan Auto Parts Industries Association, and the Japan Tobacco Institute.

Lake understated his access to Yeutter. The two had worked together for many years. More important, Lake is one of Clayton Yeutter's closest friends and advisers. Interviews and Lake's telephone logs reveal that the two men spoke on the phone most days at 7:15 a.m. One former USTR official said that "the staff constantly had to fight against Lake. Clayton was always saying, 'But Jim says this' or 'Jim says that.'" This official adds that Lake was so involved in the USTR's work that he "was like an unpaid staffer."

The problem, of course, was that Lake *was* paid—but by the Japanese.

THE POLITICIANS' POLITICIAN

James Lake presents another prominent example of someone who advises the President on politics while lobbying on behalf of the Japanese. Lake was George Bush's press adviser in the 1988 presidential campaign. During Lake's tenure on the campaign, he was also a lobbyist on the payrolls of Mitsubishi Electric, the Japan Auto Parts Industries Association, and Suzuki.

Lake was an integral cog in the Republican campaign machine in 1980, 1984, and 1988. More important to his success as a lobbyist, however, is his intimate friendship with Clayton Yeutter, U.S. Trade Representative from 1985 to 1989 and now Secretary of Agriculture.

In 1988, a veteran investigative journalist from Japan noted that it was common wisdom in Tokyo business and government circles that one of the surest ways to gain access to and influence with Yeutter was to hire James Lake. And in case after case, that's just what the Japanese did.

In 1987, during a critical moment in the market-oriented, sector-selective (MOSS) auto parts negotiations, for instance, Lake was hired to represent the interests of the Japan Auto Parts Industries Association. Lake and his staff worked closely with the Senate and the Commerce Department to ensure Japan's success in persuading the American government to adopt its weak MOSS proposals.

When the U.S. government found that Mitsubishi Electric and other Japanese companies were dumping semiconductors on the U.S. market, Lake gave the uncontested access it needed to persuade the USTR and the rest of the Reagan Administration to lift the sanctions that had been placed upon Japanese electronics companies.

The clout that Lake offers his clients is illustrated by the entrée he sold to Mitsubishi—the world's largest electronics conglomerate—when he signed on as their lobbyist in a battle against Fusion Systems, a tiny high-tech firm in Rockville, Maryland. Then Lake showed America how effective a true politician's politician can be.

In the 1970's, Fusion Systems invented and produced a unique kind of commercial ultraviolet curing equipment. Mitsubishi soon began a major effort to wrench this proprietary technology away from Fusion Systems. Fusion sought help from the American government. Lake was hired by Mitsubishi to see that Fusion did not get it.

The story begins with Don Spero, a prototypical American entrepreneur. Spero—a tall, slim former athlete—is the last American to win a world championship in single sculling. Spero first traveled to Japan in 1964, when he competed in the Tokyo Olympics. He holds a Ph.D. in plasma physics from Columbia University.

Fusion's production facility, located in a suburban Washington office park, looks more

like the most advanced high-technology Japanese plant than it does a typical American factory. It's employees resemble graduate students more than factory workers.

Fusion's principal product is a high-power microwave lamp system used in industrial production. The core of that system is an ultraviolet (UV) lamp. When bombarded with microwaves, the lamps emit UV rays that instantly dry special inks, adhesives, and other materials. Once twenty to thirty hours were needed to dry the inks on plastics. Fusion's UV system can do the same job in a matter of seconds.

Spero and his colleagues developed their system for a wide variety of commercial uses and carved out a niche in a highly specialized market. Today, Fusion lamps are used in the production of semiconductor chips, optical fibers, graphic arts films, and printed circuit boards.

Unlike most small U.S. companies, Fusion markets its products extensively in foreign countries. Almost one-third of its sales are exports; half of these are to Japan. Fusion's conflict with Mitsubishi began with one of these Japanese sales.

In 1977, Mitsubishi Electric bought a Fusion lamp. Over the next decade, Mitsubishi flooded Japan's Patent Office with some 257 applications surrounding the technology in the Fusion lamp. If successful in obtaining these patents, Mitsubishi could actually prevent Fusion from selling its own products in Japan.

Mitsubishi was using a common Japanese tactical maneuver called "patent flooding." Japanese companies file enormous numbers of patent claims on such generic technologies as screws, clamps, or other features that surround or support an invention. At a Senate hearing in June 1988, Maureen Smith, Deputy U.S. Assistant Secretary of Commerce for Japan, explained how this tactic is used against foreign inventors:

"It is common practice for a Japanese company to learn of an invention that it would like to have, and to surround the patent applications for that invention with its own applications. These applications may cover what are, taken individually, relatively insignificant aspects of the new invention. However, if enough of these 'nuisance' patents are filed, the inventor of the original product may discover that he is unable to produce his [own] product if these [nuisance] patents are granted."

Once a Japanese company files these nuisance patents, Smith added, it will "offer not to apply them against the original inventor of the product, but at a price. The price is generally a licensing or cross-licensing arrangement that gives the Japanese company rights to the technology in question."

Time after time, Japanese companies have used this tactic to force foreign firms to share their best technology—often leaving them with nothing more than token royalty payments. Frequently, when this occurs, the Japanese firm adds a secrecy clause to the contract, thereby prohibiting the U.S. firm from revealing either the deal or the practice of patent flooding. This has enabled the Japanese to use this scheme—largely unnoticed—for years. Regis McKenna, an adviser to Apple Computers, estimates that between 1950 and 1978, Japan paid $9 billion for 32,000 technology licenses that were actually worth $1 trillion. (In other words, they paid less than one cent on the dollar.) Most of these licenses were acquired from small, innovative American firms.

Only a handful of American companies have the financial resources to fight a large Japanese company in Japan's parochial legal system. To contest each initial application in a patent-flooding case cost $3,000 to $5,000. To appeal applications can cost as much as $100,000 and take five to ten years. For Fusion, the cost of litigating the case from start to finish could easily have come to $25 million—or as much as the firm's revenues for one year.

Mitsubishi's patent siege on UV microwave lamp technology placed an impossible financial drain on Fusion's limited resources. In 1985, Spero approached Mitsubishi with an offer: "Why don't we just agree that, in Japan, you will not assert your patents against us? In exchange, we will agree not to challenge your applications, and together we'll just compete for the market." Mitsubishi agreed. Its price: a royalty-free, worldwide cross license to Fusion's core technology.

It was a counteroffer Spero had to refuse. He explains: "If we gave Mitsubishi the unlimited right to use our proprietary technology, Fusion would be out of business in five years."

So Spero began a long-term struggle to defeat the most important patent applications Mitsubishi had filed to "surround" the UV lamp. Spero claims he knew the early cases would be legal "slam dunks" for his company. After all, the technology under dispute was virtually identical to that in the lamp Mitsubishi Electric bought from Fusion in 1977. And sure enough, when the first two applications were reviewed two years later, the Japanese patent examiner found in Fusion's favor and denied the issuance of Mitsubishi's patents. Still, the matter was far from settled.

Mitsubishi demanded a review by a three-person tribunal from the Japanese Patent Office. Conveniently for Mitsubishi, MITI—which is charged with helping Japanese firms acquire advanced foreign technologies—is also responsible for Japan's patent system and its tribunal reviews. In January 1987, the MITL/Patent Office tribunal overturned the rulings favoring Fusion. It ordered the challenged patents to be issued to Mitsubishi. At the same time, Fusion learned, Mitsubishi officials had contacted some of Fusion's largest customers, saying that they were considering a patent infringement suit against Fusion. Spero knew he could not win without the help of the U.S. government.

Like many American entrepreneurs, Spero was reluctant to ask for help. But unlike most American businessmen, he was located just outside Washington and knew something about politics. By chance, he had a friend who worked in the Geneva office of the USTR.

When they were ten years old, Spero met Michael Samuels at summer camp. They had stayed in touch over the years. In 1985, Samuels was appointed Deputy U.S. Trade Representative. At Samuels' swearing-in party, Spero met Clayton Yeutter. In what Spero describes as two-minute cocktail conversation, Yeutter learned that Fusion did business in Japan and suggested that Spero meet Joseph Massey, the Assistant U.S. Trade Representative for Japan and China. Later that year, Spero met with Massey and discussed how Fusion could expand its distribution system in Japan.

Two years later, when Fusion's patent rulings were overturned by the Japanese Patent Office, Spero went to Massey again. Fusion's difficulties with Japan's patent system were similar to those experienced by dozens of other U.S. companies. But because many feared that criticisms of the Japanese system would jeopardize their business ties with Japan, few American CEOs would ask for help. Massey thought Fusion's case should be used to highlight intellectual property rights as a trade issue between the United States and Japan.

At about this time, Spero learned that Mitsubishi was bringing in a heavyweight lobbyist to plead its case before the U.S. government James Lake. Once he heard about the Lake-Yeutter friendship. Spero knew that his biggest battle would be getting his own government to take Fusion's side.

Fusion and Mitsubishi opened new negotiations in September 1987. The Japanese company made an oral offer to settle if Fusion would stop its opposition to Mitsubishi's patent applications in Japan. One month later, Mitsubishi reneged on this agreement and refused further negotiations.

Fusion stepped up its efforts with Congress. In December 1987, it persuaded Lloyd Bentsen, chairman of the Senate Finance Committee, to write on Fusion's behalf to the Japanese Ambassador in Washington. Bentsen's letter stressed that if Japan would not take action to help Fusion, then Congress would. As an added measure, Fusion hired Paula Stern, former chairwoman of the International Trade Commission, to help make its case to Yeutter.

Lake and Mitsubishi pursued a very different tack. They portrayed the issue as a simple commercial dispute. It was, they said, an issue for technicians—not politicians. The argument worked. In January 1988, a Mitsubishi executive told Inside U.S. Trade that Yeutter had agreed that their conflict with Fusion was simply a private commercial affair. Mitsubishi "as assured the Administration would not get involved and 'put their arm' on a Japanese company for commercial reasons."

Spero increased pressure on the USTR and Mitsubishi. He gave an interview to Frontline, the national news show. Then he saw to it that Fusion's story made the Wall Street Journal, the National Journal, and the Washington Post.

Though Yeutter had, in effect, assured the Japanese that the U.S. government would stay out of the matter, Deputy U.S. Trade Representative Michael Smith, a career civil servant and trade negotiator, decided to get involved. Like Massey, Smith had become an advocate for using the Fusion-Mitsubishi conflict to highlight trade difficulties between the two countries over matters of intellectual property. In April 1988, Smith raised the issue with the Japanese in biannual trade talks. He also met with Mitsubishi officials in Tokyo, and demanded that they settle the case, lest it cause a political flap. Mitsubishi clearly took him seriously enough to resume negotiations with Spero.

The Japanese government also took Smith seriously. Japanese officials were furious that he had involved himself in the matter, and voiced their complaints to the State Department and the USTR.

Though the efforts of Smith, Massey, and others held promise, time was working against Fusion. In addition to the costs of lawyers, lobbyists, and patent experts, Spero was devoting much of his own time, and that of his senior staff, to the fight with Mitsubishi.

In a May 1988 article in the National Journal, James Lake offered an update on the Fusion-Mitsubishi case. Lake said, "Spero has done everything he can to solve this politically or through the press. I have tremen-

dous respect for his efforts to try to make this more than a commercial issue. Every time we think we have this tamped down, it pops up somewhere else."

Keeping the issue tamped down, of course, was the Lake-Mitsubishi strategy. One way that the Japanese company did so was to open negotiations with Fusion whenever there was political pressure, only to end them whenever the pressure was removed. Needless to say, these talks never produced an agreement.

In June 1988, Mitsubishi quickly reopened negotiations after the Senate announced hearings to examine U.S. problems with the Japanese patent system. After three days of intensive negotiations, Spero thought an agreement was in sight. A key sticking point was an insistence by Mitsubishi's Washington legal counsel—the firm of Baker and McKenzie—that neither Spero nor anyone else at Fusion Systems could ever reveal the settlement, discuss the Japanese patent system, or publicize Fusion's experiences. The final straw was a demand that Spero refuse to testify before a June Senate Commerce Committee hearing on U.S.-Japan patent conflicts. Spero was outraged. He rejected the offer and testified.

In June 1988, Lake became the media adviser to the Bush presidential campaign. Meanwhile, he continued to represent Mitsubishi.

In late 1988, several members of Congress showed a renewed interest in the Fusion case, prompting Mitsubishi to reopen its negotiations yet again. In January 1989, following still another negotiating session, Spero asked Takeshi Sakurai, Mitsubishi Electric's top representative in Washington, why Mitsubishi had raised the settlement stakes so high during their talks the summer before—high enough to kill the talks. Sakurai told Spero that he personally had upped the settlement demands when it became clear that "your government will not help you."

Fusion's case against Mitsubishi remains "tamped down"—both in Japan and in the United States. USTR Carla Hills raised the issue with the Japanese in October 1989. Spero has testified again before Congress. Mitsubishi continues to file patents in Japan. For now, Fusion remains the market leader even in Japan but operates under the growing threat of Mitsubishi's mounting pile of patent filings. Spero has nothing but praise for the career USTR negotiators who have supported his company's efforts. But he never heard from James Lake's good friend Clayton Yeutter, despite all the congressional letters and public attention.

Spero's wisdom, in retrospect: "Japan's political power in Washington is awesome. Mitsubishi and its lobbyists are just sitting there laughing at us. If they can continue to pick off the little guys like me, you can just wave goodbye to America's creative power.

U.S. DEPARTMENT OF JUSTICE,
Washington, DC.

SUPPLEMENTAL STATEMENT—PURSUANT TO SECTION 2 OF THE FOREIGN AGENTS REGISTRATION ACT OF 1938, AS AMENDED

For Six Month Period Ending June 1, 1992.

Registration No.: 3911.

Name of Registrant: Robinson, Lake, Lerer & Montgomery.

Business Address of Registrant: 1667 K Street, N.W., #900, Washington, D.C. 20005.

I—REGISTRANT

1. Has there been a change in the information previously furnished in connection with the following:

(a) If an individual:

(1) Residence address.

(2) Citizenship.

(3) Occupation.

(b) If an organization:

(1) Name—No.

(2) Ownership or control—No.

(3) Branch offices—No.

2. Explain fully all changes, if any, indicated in item 1.: None.

If the registrant is an individual, omit response to Items 3, 4, and 5.

3. Have any persons ceased acting as partners, officers, directors or similar officials of the registrant during this 6 month reporting period? No.

If yes, furnish the following information: Name; Position; Date Connection Ended.

4. Have any persons become partners, officers, directors or similar officials during this 6 month reporting period? No.

If yes, furnish the following information: Name; Residence Address; Citizenship; Position; Date Assumed.

5. Has any person named in Item 4 rendered services directly in furtherance of the interests of any foreign principal? No.

If yes, identify each such person and describe his services.

6. Have any employees or individuals other than officials, who have filed a short form registration statement, terminated their employment or connection with the registrant during this 6 month reporting period? Yes.

If yes, furnish the following information: Name: Christopher Rieck. Position or connection: Associate. Date terminated: 3/31/92.

7. During this 6 month reporting period, have any persons been hired as employees or in any other capacity by the registrant who rendered services to the registrant directly in furtherance of the interests of any foreign principal in other than a clerical or secretarial, or in a related or similar capacity? Yes.

If yes, furnish the following information: Name; Residence Address; Position or connection; Date connection began.

Clare Lynam, 1233 N. Scott Street, 401, Arlington, VA 22209, Associate.*

Douglas Lowenstein, 3902 Rosemary Street, Chevy Chase, MD 20815, Vice President.**

Edith Wooten, 2250 Clarendon Blvd., Arlington, VA 22201, Associate.**

Clare Lynam, Douglas Lowenstein, and Edith Wooten have all been previously employed by Robinson, Lake, Lerer & Montgomery but did not begin work on a foreign principal until * 2/3/92 and ** 3/6/92, at which time Robinson, Lake, Lerer & Montgomery submitted their short form registrations in compliance with your rules and regulations.

II—FOREIGN PRINCIPAL

8. Has your connection with any foreign principal ended during this 6 month reporting period? Yes.

If yes, furnish the following information: Name of foreign principal: Embassy of Papua New Guinea, Date of Termination: 1/92.

9. Have you acquired any new foreign principal[1] during this 6 month reporting period? Yes.

If yes, furnish following information: Name and address of foreign principal; Date acquired:

Canadian Forest Industries Council, 1200–555 Burrard Street, Vancouver, British Columbia V7X1S7, 2/3/92.

Brewers Association of Canada, 1200, 155 Queen Street, Ottawa, Ontario K1P6L1, 3/6/92.

Ukraine, Kiev, Ukraine, 4/22/92.

10. In addition to those named in Items 8 and 9, if any, list the foreign principals whom you continued to represent during the 6 month reporting period.

Mitsubishi Electric Corp., Japan Auto Parts Industry Association, Minolta Camera, Abu Dhabi Investment Authority

III—ACTIVITIES

11. During this 6 month reporting period, have you engaged in any activities for or rendered any services to any foreign principal named in Items 8, 9, and 10 of this statement? Yes.

If yes, identify such foreign principal and describe in full detail your activities and services: See Attached.

12. During this 6 month reporting period, have you on behalf of any foreign principal engaged in political activity as defined below? Yes.

If yes, identify each such foreign principal and describe in full detail all such political activity, indicating, among other things, the relations, interests and policies sought to be influenced and the means employed to achieve this purpose. If the registrant arranged, sponsored or delivered speeches, lectures or radio and TV broadcasts, give details as to dates, places of delivery, names of speakers and subject matter.

See Attached.

13. In addition to the above described activities, if any, have you engaged in activity on your own behalf which benefits any or all of your foreign principals? No.

If yes, describe fully.

IV—FINANCIAL INFORMATION

14. (a) Receipts—Monies:

During this 6 month reporting period, have you received from any foreign principal named in Items 8, 9 and 10 of this statement, or from any other source, for or in the interests of any such foreign principal, any contributions, income or money either as compensation or otherwise? Yes.

If yes, set forth below in the required detail and separately for each foreign principal an account of such monies: *Date; From Whom; Purpose; Amount.* See Attached.

(b) Receipts—Things of value:

During this 6 month reporting period, have you received anything of value other than money from any foreign principal named in Items 8, 9 and 10 of this statement, or from any other source, for or in the interests of any such foreign principal? No.

If yes, furnish the following information: *Name of foreign principal; Date received; Description of thing of value; Purpose.*

15. (a) Disbursements—Monies:

During this 6 month reporting period, have you—

(1) disbursed or expended monies in connection with activity on behalf of any foreign principal named in Items 8, 9 and 10 of this statement? Yes.

(2) transmitted monies to any such foreign principal?

If yes, set forth below in the required detail and separately for each foreign principal an account of such monies, including monies transmitted, if any, to each foreign principal: *Date; To Whom; Purpose; Amount.* See Attached.

15. (b) Disbursements—Things of value:

During this 6 month reporting period, have you disposed of anything of value other than money in furtherance of or in connection with activities on behalf of any foreign principal named in Items 8, 9 and 10 of this statement? No.

If yes, furnish the following information: *Date disposed; Name of person to whom given; On behalf of what foreign principal; Description of thing of value; Purpose.*

(c) Disbursements—Political contributions:

During this 6 month reporting period, have you from your own funds and on your own behalf either directly or through any other person, made any contributions of money or other things of value in connection with an election to any political office, or in connection with any primary election, convention, or caucus held to select candidates for political office? No.

If yes, furnish the following information: *Date; Amount or thing of value; Name of political organization; Name of candidate.*

V—POLITICAL PROPAGANDA

(Section 1(j) of the Act defines "political propaganda" as including any oral, visual, graphic, written, pictorial, or other communication or expression by any person (1) which is reasonably adapted to, or which the person disseminating the same believes will, or which he intends to, prevail upon, indoctrinate, convert, induce, or in any other way influence a recipient or any section of the public within the United States with reference to the political or public interests, policies, or relations of a government of a foreign country or a foreign political party or with reference to the foreign policies of the United States or promote in the United States racial, religious, or social dissensions, or (2) which advocates, advises, instigates, or promotes any racial, social, political, or religious disorder, civil riot, or other conflict involving the use of force or violence in any other American republic or the overthrow of any government or political subdivision of any other American republic by any means involving the use of force or violence.)

16. During this 6 month reporting period, did you prepare, disseminate or cause to be disseminated any political propaganda as defined above? Yes.

If yes, respond to the remaining items in this section V.

17. Identify each such foreign principal. Canadian Forest Industries Council, Brewers Association of Canada.

18. During this 6 month reporting period, has any foreign principal established a budget or allocated a specified sum of money to finance your activities in preparing or disseminating political propaganda? No.

If yes, identify each such foreign principal, specify amount, and indicate for what period of time.

19. During this 6 month reporting period, did your activities in preparing, disseminating or causing the dissemination of political propaganda include the use of any of the following: Radio or TV broadcasts; Advertising campaigns; Magazine or newspaper articles; Press releases; Motion picture films; Pamphlets or other publications; Letters or telegrams; Lectures or speeches; Other (specify): copies of ITC testimony.

20. During this 6 month reporting period, did you disseminate or cause to be disseminated political propaganda among any of the following groups: Public Officials; Legislators; Government agencies; Newspapers; Editors; Civic groups or associations; Libraries; Educational institutions; Nationality groups; Other (specify).

21. What language was used in this political propaganda: English; Other (specify): French.

22. Did you file with the Registration Section, U.S. Department of Justice, two copies of each item of political propaganda material disseminated or caused to be disseminated during this 6 month reporting period? Yes.

23. Did you label each item of such political propaganda material with the statement required by Section 4(b) of the Act? Yes.

24. Did you file with the Registration Section, U.S. Department of Justice, a Dissemination Report for each item of such political propaganda material as required by Rule 401 under the Act? Yes.

VI—EXHIBITS AND ATTACHMENTS

25. Exhibits A and B

(a) Have you filed for each of the newly acquired foreign principals in Item 9 the following:

Exhibit A: Yes.

Exhibit B: Yes.

If no, please attach the required exhibit.

(b) Have there been any changes in the Exhibits A and B previously filed for any foreign principal whom you represented during this six month period? No.

If yes, have you filed an amendment to these exhibits?

If no, please attach the required amendment.

26. Exhibit C: If you have previously filed an Exhibit C, state whether any changes therein have occurred during this 6 month reporting period. No.

If yes, have you filed an amendment to the Exhibit C?

27. Short form registration statement: Have short form registration statements been filed by all of the persons named in Items 5 and 7 of the supplemental statement? Yes.

The undersigned swear(s) or affirm(s) that he has (they have) read the information set forth in this registration statement and the attached exhibits and that he is (they are) familiar with the contents thereof and that such contents are in their entirety true and accurate to the best of his (their) knowledge and belief, except that the undersigned make(s) no representation as to the truth or accuracy of the information contained in attached Short Form Registration Statement, if any, insofar as such information is not within his (their) personal knowledge.

MARK C. HELMKE,
President.

Subscribed and sworn to before me at, Washington, D.C. this 16th day of June, 1992, Nancy Ann Kisbanuk.

Commission Expires 10/31/96.

[From the U.S. Department of Justice, Registration Unit, Criminal Division, Washington, DC]

NOTICE

Please answer the following questions and return this sheet in triplicate with your supplemental statement:

1. Is your answer to Item 16 of Section V (Political Propaganda—page 7 of Form OBD-64—Supplemental Statement): Yes.

(If your answer to question 2 is "yes" please forward for our review copies of all such material including: films, film catalogs, posters, brochures, press releases, etc. which you have disseminated during the past six months.)

Date: 6-16-92.

MARK C. HELMKE,
President.

ITEMS 11 AND 12

Foreign Principal: Canadian Forest Industries Council.

Interests: Track legislation and administrative agency activity affecting international trade, prepare memoranda, and advise principal on taking action, if appropriate, with regard to either legislative or administrative activities and to assist the Council in its communications efforts.

Key: JHL—James H. Lake; LM—Lance Morgan; JL—Janet Lane; and CL—Clare Lynam.

Date, Person, Nature of Contact, and Individual Contacted

Jan. 24, LM, Tel. call, Cort Kirkwood, Washington Times, requesting meeting with client to discuss background of the US-Canada lumber dispute.

Jan. 30, CL, Tel. call, Joan Motyka, New York Times, regarding possibility of the New York Times doing an op-ed on the US-Canada lumber dispute.

Jan. 31, LM, Tel. call, Gordon Crovitz, Wall Street Journal, requesting meeting with client to discuss background of the US-Canada lumber dispute.

Jan. 31, CL, Tel. call, Leo Abruzzese, Journal of Commerce, requesting meeting to discuss the US-Canada lumber dispute.

Jan. 31, JL, Tel. call, James Bovard, freelance journalist, to request meeting with client.

Feb. 3, LM, Tel. call, Cort Kirkwood, Washington Times, to firm up plans for session with Washington Times editorial writers and Council members.

Feb. 3, LM, Tel. call, Karen Tumulty, Los Angeles Times, requesting interview with client to discuss US-Canada lumber dispute.

Feb. 3, CL, Tel. call, Leo Abruzzese, Journal of Commerce, requesting editorial board meeting with client to discuss the US-Canada lumber dispute.

Feb. 4, LM, Letter, Gordon Crovitz, Wall Street Journal with background information on the US-Canada lumber dispute.

Feb. 4, CL, Tel. call, Leo Abruzzese, Journal of Commerce, regarding meeting of editoral board with client to discuss US-Canada lumber dispute.

Feb. 5, LM, Letter, John Anderson, Washington Post and Peter Passell, New York Times, with background information on Canadian timber issue.

Feb. 5, CL, Tel. call, To attached list inviting them to attend press breakfast on 2/11/92 with client to discuss US-Canada lumber dispute. (#9)

Feb. 6, 7, 10, JL, CL, Tel. call, To above attached list following up on invitation to press breakfast on 2/11/92. (#9)

Feb. 6, CL, Tel. call, Mike Omeluf, Broadcasting Limited, Cal Woodward, Canadian Press Wire, regarding invitation to press breakfast on 2/11/92.

Feb. 6, CL, Tel. call, Bob Davis, Wall Street Journal, to arrange meeting with client to discuss US-Canada lumber dispute.

Feb. 6, CL, Fax, James O'Connell, CTV Television regarding press briefing breakfast on 2/11/92.

Feb. 7, LM, Tel. call, Gordon Crovitz, Wall Street Journal and John Anderson, Washington Post, regarding possible meeting with client to discuss US-Canada lumber dispute.

Feb. 7, CL, Tel. call, Bruce Stokes, National Journal, and David MacDonald, Winnepeg Free Press, regarding breakfast on 2/11/92.

Feb. 7, CL, Tel. call, Leo Abruzzese, Journal of Commerce, to confirm editorial board meeting on 2/13/92.

Feb. 10, CL, Tel. call, Bob Davis, Wall Street Journal, to confirm meeting with client on 2/11/92 and faxed some biographical information on clients.

Feb. 11, JL, CL, Meeting, Press breakfast with John Maggs, Journal of Commerce, Nancy Waitz, Reuters, Barb Sweet, Thomson Newspapers, M. Omelus, Canadian Press, Broadcast News, John Saunders, Toronto Globe and Mail, Hilary MacKenzie, Maclean's Magazine, David Schaefer, Seattle Times, Rod McQueen, Financial Post, Jim Berger, Washington Trade Daily, Mary Foley, UPI, Scott Sonner, AP, George Hoff,

CBC, Alkman Granitsas, Inside US Trade, and Council members John Kerr, Gordon Ritchie, and Tom Buell.

Feb. 11–13, LM, JL, CL, Mail, Messenger and Hand Out Press packet to list attached. (#10)

Feb. 11, JL, CL, Meeting, Keith Bradsher, New York Times, and James Bovard, freelance journalist, and Council members (John Kerr, Gordon Ritchie and Tom Buell) regarding US-Canada lumber dispute.

Feb. 11, CL, Meeting, Bob Davis, Wall Street Journal, and Council members (John Kerr, Gordon Ritchie and Tom Buell) regarding U.S.-Canada lumber dispute.

Feb. 11, JL, Tel. call, Ken Smith, Washington Times, regarding confirmation of meeting with client to discuss US-Canada lumber dispute.

Feb. 12, LM, Meeting, Ken Smith, Washington Times, and Council members (John Kerr and Tom Buell) to discuss US-Canada lumber dispute.

Feb. 13, LM, Meeting, Gordon Crovitz, Wall Street Journal, and Council members (John Kerr and Gordon Ritchie) to discuss US-Canada lumber dispute.

Feb. 13, LM, Meeting, Scott Bosley, Leo Abruzzese, Aviva Freudmann, Howard Simon and Loli Wu, Journal of Commerce, and Council members (John Kerr and Gordon Ritchie) to discuss US-Canada lumber dispute.

Feb. 13, CL, Tel. call, Phil Cogswell, Oregonian, regarding possible editorial board meeting with Council members to discuss US-Canada lumber dispute.

Feb. 18, CL, Tel. call, Jim Vesely, Seattle Times, regarding possible editorial board meeting with Council members to discuss US-Canada lumber dispute.

Feb. 19, LM, Tel. calls, Richard Thomas and Bob Samuelson of Newsweek to discuss US-Canada lumber dispute.

Feb. 21, CL, Tel. call, Charles Dunshire, Seattle Post-Intelligencer, regarding possible editorial board meeting with Council members to discuss US-Canada lumber dispute.

Feb. 24, LM, Letter, Ken Smith, Washington Times with some background clippings on US-Canada lumber situation.

Feb. 24, LM, Tel. call, Gordon Crovitz, Wall Street Journal, regarding op-ed written by Gordon Ritchie.

Feb. 26, CL, Meeting, Press packet, Phil Cogswell, Oregonian, and Jim Vesely and Don Hannula, Seattle Times, and Council members to discuss US-Canada lumber dispute. Press packet was given to each.

Feb. 26, LM, Tel. call and letter, Peter Passell, New York Times, with press kit containing background on US-Canada lumber dispute.

Feb. 27, JL, Letters, Jim Hoagland, Washington Post, and Robert Samuelson, Newsweek, with press kit containing background on US-Canada lumber dispute.

Feb. 27, LM,JL, Letters, To attached list with additional background information on US-Canada lumber dispute. (#11)

Feb. 28, JL, Letter, John Memmott, USToday, with press kit containing background on US-Canada lumber dispute.

Mar. 2, LM, Letter, Hobart Rowen, Washington Post, with press kit containing background on US-Canada lumber dispute.

Mar. 2, CL, Fax, Ken Smith, Washington Times, with some background information on US-Canada lumber dispute.

Mar. 2, CL, Tel. call, From George Hoff, CBC, requesting information on possible announcement from Department of Commerce.

Mar. 3, CL, Tel. calls, Bob Davis, Wall Street Journal and Keith Bradsher, New York Times, regarding potential announcement from Department of Commerce.

Mar. 3, LM, Tel. calls, Ken Smith, Washington Times, with background information on US-Canada lumber dispute.

Mar. 4, 5, JL, CL, Fax, Invitation to attached list to attend press conference on March 6, 1992, at the Canadian Embassy regarding the Department of Commerce's preliminary determination. (#12)

Mar. 4, 5, LM, Tel. calls, David Frum, Wall Street Journal, regarding publication of Gordon Ritchie's op-ed. Conversations were regarding background information on the piece.

Mar. 4, CL, Tel. call, Jim Vesely, Seattle Times, regarding possibility of doing editorial on the lumber dispute.

Mar. 4, CL, Tel. call, Mike Omeluf, Canadian Press, regarding possible press conference to be held at Canadian Embassy.

Mar. 5, CL, Tel. call, Leo Abruzzese, Journal of Commerce, regarding possibility of doing editorial on the lumber dispute.

Mar. 5, LM, Tel. call, George Hoff, Canadian Broadcasting, regarding possible press conference.

Mar. 6, LM, JL, CL, Hand-Out, Informational packets handed out during press conference held by the Canadian Embassy. See attached sign-in sheet. (#13)

Mar. 6, CL, Tel. call, Fax, Jim Vesely, Seattle Times, to discuss the preliminary determination made by the Department of Commerce and faxed background information.

Mar. 10, CL, Tel. call, Terry Brown, Chicago Tribune, regarding possible editorial board meeting with Council members.

Mar. 13, 16, JL, CL, Mail, Messenger, To attached press list, background information and press clippings on US-Canada timber dispute. (#14)

Mar. 13, CL, Tel. call, Terry Brown, Chicago Tribune, to discuss particulars of editorial board meeting on March 26, 1992.

Mar. 17, CL, Mail, Tel. call, Charles Dunsire, Seattle Post-Intelligencer, and Ted Douglas, Detroit News, to request editorial board meeting and sent background information and press clippings on US-Canada timber dispute.

Mar. 17, CL, Tel. calls, Chicago Sun Times, requesting editorial board meeting.

Mar. 17, CL, Fax, Tom Plate, Los Angeles Times, requesting editorial board meeting to discuss US-Canada timber dispute.

Mar. 19, CL, Tel. call, Duane Freese, USA Today, and Pat Miller, Philadelphia Inquirer, requesting editorial board meeting to discuss US-Canada timber dispute and sent background information and press clippings.

Mar. 19, CL, Fax, David Boldt, Philadelphia Inquirer, requesting editorial board meeting.

Mar. 20, CL, Tel. call, Linda McCraith, Detroit Free Press, and Terry Brown, Chicago Tribune, requesting editorial board meeting to discuss US-Canada timber dispute.

Mar. 25, LM, Letter, Morris Thompson, Detroit Free Press, Eduardo Lachica, Wall Street Journal and Irv Chapman, CNN, with background information and press clippings on US-Canada timber dispute.

Mar. 26, LM, Meeting, Terry Brown, Chicago Tribune, and Ted Boswell of CFIC, to discuss US-Canada timber dispute. Gave Terry Brown a copy of our informational packet.

Mar. 27, LM, Letter, Terry Brown, Chicago Tribune, with additional background materials requested as previous day's meeting.

Mar. 31, CL, Mail, Barbara Ireland, Buffalo News, Robert Farmer, Watertown Daily News, George Neavoll, Portland Press Herald, Dick Foster, Milwaukee Journal, Chuck Whiting, Minnesota Star Tribune, and Michele Cole, Idaho Statesman, information packet with background materials on US-Canada timber dispute.

Mar. 31, Tel. call, Duane Freese, USA Today, regarding possibility of editorial board meeting.

Apr. 1, CL, Mail, Ron Clark, St. Paul Pioneer Press, and Mark Woodward, Bangor Daily News, information packet with background information on US-Canada timber dispute.

Apr. 2, CL, Tel. call, Ron Clark, St. Paul Pioneer Press, and Mark Woodward, Bangor Daily News, regarding possibility of editorial board meeting.

Apr. 2, LM, Meeting, Morris Thompson, Detroit Free Press, and Ted Boswell of CFIC, to discuss US-Canada timber dispute. Gave Morris Thompson a copy of our informational packet.

Apr. 2, CL, Mail, Tom Plate, LA Times, and Dick Wesnick, Billings Gazette, information packet with background information on US-Canada timber dispute.

Apr. 2, CL, Tel. call, Jim Strang, Cleveland Plain Dealer, regarding possible op-ed.

Apr. 3, LM, Letter, Morris Thompson, Detroit Free Press, with additional background materials requested at previous day's meeting.

Apr. 6, CL, Tel. call, Chuck Whiting, Minneapolis Star Tribune, regarding editorial board meeting.

Apr. 6, CL, Tel. call, Ted Douglas, Detroit News, requesting copy of editorial he wrote for paper.

Apr. 8, LM, CL, Press release, Informational press release sent to the attached list. (#15)

Apr. 9, CL, Mail, Bob Witas, Milwaukee Sentinel, informational packet with background information of US-Canadian timber dispute.

Apr. 10, CL, Mail, Informational packet and press clippings on US-Canadian lumber dispute to all Members of the U.S. Senate. List is attached. (#16)

Apr. 13-May 31, Hand-out, Informational packet and press clippings on US-Canadian lumber dispute to staffs of Senators Exon, Rudman, Simon, Kerrey, Seymour, Pryor, Glenn, Mitchell, Cohen and Metzenbaum and staffs of Congressmen Sharp, Jacobs, Hyde, LaRocca, Hall, Viscloskey, Long, Purcell, Roemer, Upton, Picket, Bateman and Leach.

Apr. 14, CL, Tel. call, Mark Woodward, Bangor Daily News, and George Neavoll, Portland Press, regarding editorial board meeting to discuss the US-Canada lumber dispute.

Apr. 15, LM, Tel. call, Joe Geshweiler, Marilyn Geewax, Atlanta Constitution, regarding possible editorial board meeting for members of CFIC to discuss the US-Canada timber dispute.

Apr. 15, CL, Meeting, Mark Woodword, Bangor Daily News, and George Neavoll, Portland Press Herald, to discuss US-Canada timber dispute. Gave informational packets to both newspapers.

Apr. 20, CL, Tel. call, Bob Witas, Milwaukee Sentinel to cancel editorial board meeting request.

Apr. 21, LM, Tel. call, Marilyn Geewax, Atlanta Constitution, regarding editorial board meeting.

Apr. 28, CL, Tel. call, Richard Matthews of Atlanta Journal to request editorial board meeting.

Apr. 29, CL, Press release, Eddie LaChica, Wall Street Journal, Jim Berger, Washington Trade Daily, (#17) and attached list of PR Newswire contacts. (#18)

Apr. 29, JHL, Tel. call, Clayton Yeutter, Counsellor to the President for Domestic Policy, seeking background knowledge regarding CVD case.

Apr. 30, LM, CL, Press packet, To attached list with information background, Nordhaus press release and copy of executive summary distributed by Commerce Department. (#19)

May 4, JL, Tel. call, James Bovard, freelance writer regarding Nordhaus press release and executive summary distributed by Commerce Department and sent copy of same.

May 5, CL, Tel. call, Ron Clark, St. Paul Pioneer Press, to discuss psosible editorial board meeting.

May 8, LM, Tel. call, Mail, Marilyn Geewax, Atlanta Constitution and Richard Matthews, Atlanta Journal to firm up details of meetings to be held. Sent press packets with background information on US-Canada timber dispute.

May 10, JHL, Tel. call, Clayton Yeutter, Counsellor to the President for Domestic Policy, requesting he accept phone call from an advisor to CFIC.

May 11, LM, Tel. call, Les Blumenthal, McClatchy Newspapers, regarding US-Canada timber dispute.

May 12, LM, Meeting, Marilyn Geewax, Atlanta Constitution and Richard Matthews, Atlanta Journal, to discuss US-Canada timber dispute.

May 13, LM, Tel. call, Mail, Karen Tumulty, Los Angeles Times, to discuss US-Canada timber dispute and sent along packet of background information.

May 14, LM, Tel. call, Karen Tumulty, Los Angeles Times, to discuss US-Canada timber dispute.

May 15, LM, Tel. call, John Maggs, Journal of Commerce, regarding Commerce Department's Final Determination.

May 15, JHL, Tel. call, Les Blumenthal, McClatchy Newspapers regarding US-Canada lumber dispute.

May 15, LM, CL, Press release, Attached release to attached list. (#20) and to PR Newswire List. (#18)

May 18, LM, Letter, To attached list with attached enclosures. (#21)

May 27, CL, Tel. call, Stuart Auerbach, Washington Post, Eddie Lachica, Wall Street Journal and John Maggs, Journal of Commerce to inform them of ITC hearing on May 28, 1992.

May 28, LM, Press release, See attached release (#22) to Scott Sonner, AP, Stuart Auerbach, Washington Post, Eddie Lachica, Wall Street Journal, Steve Greenhouse, New York Times, John Maggs, Journal of Commerce, Chuck Abbott, Reuters, Greg Wright, Knight-Ridder, Laura Eggerston, CP, Barbara Sweet, Thompson Newspapers, Mike Omelus, Broadcast News Ltd., Rod McQueen, Financial Post, John Saunders, Globe & Mail and Carl Hanlon, Group W News Service. Also sent to PR Newswire List. (#18)

Lodging, while in Abu Dhabi for staffing of press liaison office:

C. Walker, 3/21–4/3/92, 2,362.27;

J. Lockhart 3/7–3/21/92, 2,240.39; 4/6–4/19/92, 2,362.27.

Airfare, C. Walker, to Abu Dhabi and return for staffing of press liaison office, 3/20–4/3/92, 4,886.00.

Airfare, J. Lockhart from London to Abu Dhabi and return to staff press liaison office, 4/5–4/19/92, 2,160.00.

Total: Abu Dhabi Press: Liaison Office, $85,166.66; Washington Office, 58,997.29.

Grand Total: $144,163.95.

CANADIAN FOREST INDUSTRIES COUNCIL

Date to whom, purpose, and amount:

2/92 Agency, Reimburse Expenses—
Information Services, 25.00;
Local Transportation, 264.30;
Photocopying, 123.80;
3/92 Agency, Reimburse Expenses—
Staff Meals, 856.10;
Courier, 95.50;
Federal Express, 212.17;
Supplies for Kits, 16.32;
Information Services, 25.00;
Newswire Services, 423.93;
Photocopying, 1,184.000;
Postage, 8.86;
Video Tapes, 95.00;
Publications, 25.02;
Telephone/Telecopy 140.84;
Local Transportation, 110.00;
Limousine Service, 393.95.

Airfare to Montreal, Canada, to meet with client to discuss strategy and developments:
J. Lake—2/27–2/28/92, 514.26;
L. Morgan—2/27–2/28/92, 514.26.

Train fare to New York City, to meet with editorial boards:
L. Morgan—2/13/92, 129.00;
J. Kerr—2/13/92, 129.00.

Airfare for L. Morgan for return from New York City after editorial board meetings, 2/13/92, 142.00.

Loding while in Montreal, Canada, for meeting with client:
J. Lake—1/27/92, 230.05;
L. Morgan—1/27/92, 230.05.
4/92 Agency, Reimburse Expenses—
Staff Meals, 164.26;
Couriers, 154.10;
Federal Express, 956.33;
Supplies for Kits, 17.02;
Information Services, 25.00;
Newswire Services, 603.08;
Photocopying, 3,137.40;
Printing, 795.00;
Postage, 14.29;
Video Tapes, 105.40;
Publications, 142.81;
Telephone/Telecopy, 219.30;
Room Rental for Press Conference, 681.01;
Local Transportation, 373.75;
Car Service, 245.40.

Airfare, L. Morgan to Montreal, Canada, to meet with client to discuss strategy and developments, 3/12–3/13/92, 524.75.

Airfare, J. Lake to Vancouver, Canada, to meet with client to discuss strategy and developments, 3/23–3/24/92, 2,271.45.

Airfare, C. Lynam to Vancouver, Canada, to meet with client to discuss strategy and developments, 2/24–2/29/92, 712.40.

Lodging for L. Morgan while in Montreal, Canada, for meeting with client, 3/13/92, 214.65.

Lodging for C. Lynam while in Vancouver, Canada, for meeting with client, 2/26–2/29/92, 327.74.

5/92 Agency, Reimburse Expenses—
Staff Meals, 322.22;
Courier, 400.50;
Federal Express, 843.76;
Supplies for Kits, 715.50;
Information Services, 25.00;
Newswire Services, 206.47;
Photocopying, 3,011.60;
Postage, 102.54;
Video Tapes, 273.80;
Press Clippings, 2,154.29;
Telephone/Telecopy, 360.15;
Local Transportation, 292.00.

Airfare, L. Morgan to Chicago, Illinois, (one-way) to meet with editorial board, 3/26/92, 427.00.

Airfare L. Morgan to Detroit, Michigan, to meet with editorial board, 4/2/92, 632.00.

Airfare, L. Morgan to Vancouver, Canada, to meet with client to discuss strategy and developments, 4/22–4/25/92, 1,281.47.

Airfare, C. Lynam to Bangor, Maine, to meet with editorial boards, 4/15/92, 467.00.

Lodging for L. Morgan while in Vancouver, Canada, for meeting with client, 4/22–4/25/92, 386.18.

Total—$29,852.53.

BREWERS ASSOCIATION OF CANADA

Date to whom, purpose, and amount:
4/92 Agency, Reimburse Expenses—
Staff Meals, 41.51;
Courier, 388.00;
Federal Express, 1,311.27;
Supplies for Kits, 431.72;
Information Services, 200.00;
Photocopying, 491.00;
Postage, 94.64;
Video Tapes, 57.00;
Telephone/Telecopy, 357.56;
Supplies, 35.95;
Printing, 1,459.15;
Mailing List, 400.00;
Local Transportation, 249.60;
Air Transportation:

Airfare to Ottawa, Canada, to meet with client to discuss strategy and developments:
M. Helmke—2/27–2/28/92, 447.79;
D. Lowenstein—2/27–2/28/92, 458.79;
E. Wooten—2/27–2/28/92, 447.79;

Lodging: While in Ottawa to meet with client:
M. Helmke—2/27–2/28/92, 151.20;
D. Lowenstein—2/27–2/28/92, 155.64;
E. Wooten—2/27–2/28/92, 151.20.
5/92 Agency, Reimburse Expenses—
Staff Meals, 61.04;
Courier, 230.50;
Federal Express, 118.96;
Supplies for Kits, 14.10;
Information Services, 100.00;
Photocopying, 159.00;
Postage, .52;
Telephone/Telecopy, 470.70;
Local Transportation, 23.00;
Computer, 1,100.00;
Publications, 31.90;
Newswire Services, 68.56.
Total—$9,708.09.
Grand Total—$226,218.67.

[From the U.S. Department of Justice, Washington, DC]

EXHIBIT A—TO REGISTRATION STATEMENT "UNDER THE FOREIGN AGENTS REGISTRATION ACT OF 1938, AS AMENDED"

Privacy Act Statement. Every registration statement, short form registration statement, supplemental statement, exhibit, amendment, dissemination report, copy of political propaganda or other document or information filed with the Attorney General under this act is a public record open to public examination, inspection and copying during the posted business hours of the Registration Unit in Washington, DC. One copy is automatically provided to the Secretary of State pursuant to Section 6(b) of the Act, and copies of such documents are routinely made available to other agencies, departments and Congress pursuant to Section 6(c) of the Act. Finally, the Attorney General transmits an annual report to the Congress on the Administration of the Act which lists the names of all agents and the nature, sources and content of the political propaganda disseminated or distributed by them. This report is available to the public.

Public Reporting Burden. Public reporting burden for this collection of information is estimated to average .49 hours per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this

burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden to Chief, Registration Unit, Criminal Division, U.S. Department of Justice, Washington, DC 20530; and to the Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, DC 20503.

(Furnish this exhibit for each foreign principal listed in an initial statement and for each additional foreign principal acquired subsequently)

1. Name and address of registrant: Robinson, Lake, Lerer & Montgomery, 1667 K Street, NW., #900, Washington, DC.

2. Registration No.: 3911.

3. Name of foreign principal: Canadian Forest Industries Council.

4. Principal address of foreign principal: 1200–555 Burrard Street, Vancouver, British Columbia, Canada V7X1S7.

5. Indicate whether your foreign principal is one of the following type: Foreign.

Other (specify): Council.

6. If the foreign principal is a foreign government, state: N/A.

7. If the foreign principal is a foreign political party, state: N/A.

8. If the foreign principal is not a foreign government or a foreign political party:

(a) State the nature of the business or activity of this foreign principal:

The foreign principal provides a vehicle through which the forest industries of Canada may actively support and promote common national or regional goals. In the United States, the foreign principal is concerned with U.S. trade laws and provisions of the U.S.-Canada Free Trade Agreement which would affect imports of Canadian softwood lumber and other related products.

(b) Is this foreign principal:

Owned by a foreign government, foreign political party, or other foreign principal—Yes.

Directed by a foreign government, foreign political party, or other foreign principal—Yes.

Controlled by a foreign government, foreign political party, or other foreign principal—Yes.

Financed by a foreign government, foreign political party, or other foreign principal—Yes.

Subsidized in whole by a foreign government, foreign political party, or other foreign principal—Yes.

Subsidized in part by a foreign government, foreign political party, or other foreign principal—Yes.

9. Explain fully all items answered "Yes" in Item 8(b).

Alberta Forest Products Association.

Canadian Lumbermen's Association.

Canadian Pulp and Paper Association.

Canadian Wood Council.

Cariboo Lumber Manufacturer's Association.

Central Forest Products Association, Inc.

Council of Forest Industries of British Columbia.

COFI-Northern Interior Lumber Sector.

Interior Lumber Manufacturer's Association.

Maritime Lumber Bureau.

New Brunswick Forest Products Association.

Nova Scotia Forest Products Association.

Ontario Forest Industries Association.

Ontario Lumber Manufacturers Association.

Quebec Forest Industries Association.

Quebec Lumber Manufacturers Association.

The Western Plywood Manufacturers Association.

10. If the foreign principal is an organization and is not owned or controlled by a foreign government, foreign political party or other foreign principal, state who owns and controls it. N/A.

Date of Exhibit A: 2/3/92.

Name and Title: Mark Helmke, Executive Vice President and General Manager.

[From the U.S. Department of Justice, Washington, DC.]

EXHIBIT B—TO REGISTRATION STATEMENT "UNDER THE FOREIGN AGENTS REGISTRATION ACT OF 1938, AS AMENDED"

Instructions: A registrant must furnish as an Exhibit B copies of each written agreement and the terms and conditions of each oral agreement with his foreign principal, including all modifications of such agreements; or, where no contract exists, a full statement of all the circumstances by reason of which the registrant is acting as an agent of a foreign principal. This form shall be filed in triplicate for each foreign principal named in the registration statement and must be signed by or on behalf of the registrant.

Privacy Act Statement. Every registration statement, short form registration statement, supplemental statement, exhibit, amendment, dissemination report, copy of political propaganda or other document or information filed with the Attorney General under this act is a public record open to public examination, inspection and copying during the posted business hours of the Registration Unit in Washington, D.C. One copy is automatically provided to the Secretary of State pursuant to Section 6(b) of the Act, and copies of such documents are routinely made available to other agencies, departments and Congress pursuant to Section 6(c) of the Act. Finally, the Attorney General transmits an annual report to the Congress on the Administration of the Act which lists the names of all agents and the nature, sources and content of the political propaganda disseminated or distributed by them. This report is available to the public.

Public Reporting Burden. Public reporting burden for this collection of information is estimated to average .33 hours per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate or any other aspects of this collection of information, including suggestions for reducing this burden to Chief, Registration Unit, Criminal Division, U.S. Department of Justice, Washington, D.C. 20530, and to the Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, D.C. 20503.

Name of Registrant: Robinson, Lake, Lerer & Montgomery.

Name of Foreign Principal: Canadian Forest Industries Council.

3. The agreement or understanding between the registrant and the foreign principal is the result of neither a formal written contract nor an exchange of correspondence between the parties. If this box is checked, give a complete description below of the terms and conditions of the oral agreement or understanding, its duration, the fees and the expenses, if any, to be received:

Duration of representation is indeterminate at this time. Fees will be billed on an hourly basis. Robinson, Lake, Lerer & Montgomery's rates range from $80.00 per hour to $400.00 per hour, dependent on level of participation.

4. Describe fully the nature and method of performance of the above indicated agreement or understanding:

1. Monitor the news media.

2. Explain to the news media and government officials, if necessary, through written and oral communications, the nature of the principal's interests.

5. Describe fully the activities the registrant engages in or proposes to engage in on behalf of the above foreign principal:

1. Monitor the news media.

2. Explain to the news media and government officials, if necessary, through written and oral communications, the nature of the principal's interests.

6. Will the activities on behalf of the above foreign principal include political activities as defined in Section 1(o) of the Act?—Yes.

If yes, describe all such political activities indicating, among other things, the relations, interests or policies to be influenced together with the means to be employed to achieve this purpose.

Various federal agencies could possibly take action on matters related to the Canadian Forest Industries Council's interests. Consequently, our activities would explain the Council's attitude toward any such activities and further explain the possible impact any such government decisions might have on the Council.

Date of Exhibit B 2/3/92.

Name and Title: Mark Helmke, Executive Vice President and General Manager.

By Mr. MACK (for himself, Mr. SEYMOUR, and Mr. GRAHAM):

S. 3204. A bill to require the use, in Federal formula grant programs, of adjusted census data, and for other purposes; to the Committee on Governmental Affairs.

S. 3205. A bill to require that, in the administration of any benefits program established by or under Federal law which requires the use of data obtained in the most recent decennial census, the 1990 adjusted census data be considered the official data for such census; to the Committee on Governmental Affairs.

S. 3206. A bill to provide for the utilization of the latest available census data in certain laws related to airport improvements; to the Committee on Commerce, Science, and Transportation.

S. 3207. A bill to provide for the utilization of the most current census data in certain laws related to the environment and public works; to the Committee on Environment and Public Works.

S. 3208. A bill to provide for the utilization of the latest available census data in certain laws related to Energy and Natural Resources; to the Committee on Energy and Natural Resources.

S. 3209. A bill to provide interim current census data on below poverty, urban, rural, and farm populations; to the Committee on Governmental Affairs.

S. 3210. A bill to utilize the most current Federal census data in the distribution of Federal funds for agriculture, nutrition, and forestry; to the

Committee on Agriculture, Nutrition, and Forestry.

S. 3211. A bill to provide for the utilization of the latest available census data in certain laws related to urban mass transportation; to the Committee on Banking, Housing, and Urban Affairs.

CENSUS LEGISLATION

Mr. MACK. A total of 100 Federal programs providing around $116 billion in grants at the State and local levels use population count or characteristic data—such as age or income—in formulas that allocate all or a portion of program grant money. Some of these programs are either required by law to use decennial census data when more recent estimates are available, or the data necessary for the formula is only updated every 10 years.

I am concerned that this violates the intent of Congress in creating these programs. Congress mandates that population should be used in distributing Federal funds for the purpose of dividing those funds among States fairly, that is, in proportion to the relative number of people living in those States. Using old population data subverts congressional intent.

This is particularly unfair to States that have grown faster than the national average. For example, Florida has grown three times as fast as the rest of the Nation, adding an average of 892 people every day since the 1980 census. That is the equivalent of all of the people in Wyoming, South Dakota, Montana, and Maine packing up their belongings and moving to the Sunshine State. Florida is now the fourth largest State and will be getting four new seats in the 103d Congress.

The funds distributed by these formulas are critically needed as the population in fast growing States explodes. Unfortunately, Florida and other fast growing States will be using the additional funds distributed by the new decennial census figures just to catch up. This tends to hurt Florida and contributes to the fact that Florida receives the Nation's smallest per capita grants allocation. According to Florida Tax Watch, not only is Florida 50th out of 50 States in per capita Federal aid, it is 56th out of 56 when the District of Columbia and the territories of American Samoa, Guam, Northern Marinas, Puerto Rico, and the Virgin Islands are included. When comparing a State's share of total Federal taxes paid to its proportional share of grants received, Florida taxpayers sent $1.45 to Washington for each $1.00 returned to the State in the form of grants in aid.

In order to help correct this problem, I will be introducing eight separate bills. First, there are 10 programs that require the authorizing legislation to be amended to delete all references to the decennial census data. The first five bills divide these programs up among their respective committees of jurisdiction, amends them to delete references to the decennial census, and requires them to use the latest census estimates prepared by the Department of Commerce.

Second, there are 26 programs that use data that is only calculated once every 10 years. These programs use data concerning urban, rural, farms and below poverty populations. One bill requires the Department of Commerce to publish annual data for each State, urban area, and rural area, on below poverty, urban, rural, and farm populations.

Another bill requires programs to use the most current data available. This bill will ensure that all programs that use population data will use the most current data available and will not change back to decennial census data for political or other reasons.

The final bill requires the Census Bureau to use the post-enumeration survey data for calculation of the future estimates. This data is more accurate than the initial survey, and States that had high undercounts in the census will be cheated out of funds if the inaccurate data is used. The bottom line is this: Adjusted data are accurate, the original census figures are not. Florida stands to lose millions if the original, inaccurate figures are used. That's nonsense.

The problem of using outdated data as underscored when the Department of Education announced that it was going to use census data gathered over a decade ago to make its 1992 allocations under part A of chapter 1 of title I of the Elementary and Secondary Education Act. Florida stands to lose millions of dollars because of this error. This clearly subverts congressional intent of dividing these funds fairly based upon the number of people meeting a certain criteria in a State. It's an outrage that Florida and other fast-growth States are being short-changed by a Federal government that refuses to allow funding to follow population growth.

This legislation is only the first step in the right direction for these formula grants programs. There are other elements in these formulas that need closer scrutiny. These elements may also discriminate against fast growing States. For example, certain HUD programs such as HOME and CDBG are formula driven. A variety of factors, such as housing supply and poverty data are used in the formulas. In determining how much housing is in need of rehabilitation, HUD looks at the amount of housing built before 1950. While the housing stock of older and larger urban cities have considerable pre-1950 housing stock, newer growth States, such as Florida, do not. As a result of the weight put on pre-1950 housing stock, Florida's share of housing funds are decreased.

While these formula programs need closer scrutiny to eliminate all of the bias against fast growing States, the legislation that I have introduced today will help ease some of the problem. I urge my colleagues to correct this injustice and support these important bills.

Mr. President, I rise this morning as an original cosponsor of the legislation which my friend and distinguished colleague from Florida, Senator MACK, is introducing to allow more equity in census-based Federal formula programs. The timeliness of adjusting such programs to reflect population trends is of great importance as this country grows and changes.

Too many States and communities have been short-changed in Federal aid by the current system, which, in many programs, uses outdated figures from the decennial census. Our country was founded on the idea that all of us count, but apparently that does not mean we will all be counted on time.

As the population of individual States alters in size and composition, Mr. President, critical aid dollars must shift accordingly, not 10 years after the fact. My home State of California is a prime example. During the 1980's, our population grew by over 600,000 persons per year, the largest expansion in our Nation and a growth rate equal to the size of entire States like Wyoming, North Dakota, and Vermont. This trend has continued unabated in this decade as California added 620,000 people in 1991.

And yet, rather than using more precise annual estimates that are readily available from the Census Bureau, many Federal formula grant programs critical to California and other high-growth States, from rural hospital funds to highway improvement aid, rely on data that is at times as much as 7 or 8 years old.

These Federal funds play a decisive role in the education, transportation, and criminal justice development and maintenance programs of numerous cities and States. It makes little sense to keep Federal dollars away from these areas where they rightly belong, and it runs counter to the purpose of entire programs: Instead of providing needed help, this outdated funding system inflicts pain.

Our eight bills would help these communities by simply requiring that the most current population data available from the Census Bureau be used in the calculation of all Federal funding programs which employ census data. There is no ambiguous language, nor hidden meanings.

Five pieces of the legislation simply strike, in each relevant statute, the words "most recent decennial census" and replace this with the new phrase "latest available estimates prepared by the Department of Commerce." Another bill directs the Secretary of Com-

merce to prepare intercensal estimates for each State on below poverty, urban, rural, and farm populations. Our final bill would require that intercensal population estimates be based upon the statistically adjusted 1990 census figures.

On paper, these changes may seem insignificant, but, in people's everyday life, their significance cannot be overstated. From more responsive rape counseling to better local air pollution control to improved airport facilities, Federal aid affects each one of us in countless positive ways. Thus, the most accurate geographical distribution of such aid should be just as important as the aid itself.

In sum, Congress must empower State and local officials to effectively carry out their manifold responsibilities by mandating the use of the most current population data in the calculation of Federal aid programs. We in this body owe that, not only to our own constituents, but to the Nation as a whole.

I urge all my colleagues to join Senator MACK and myself in supporting the swift passage of this legislation.

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

S. 3212. A bill to amend the Social Security Act to improve access to Medicaid Program; to the Committee on Finance.

MEDICAID ELIGIBILITY SIMPLIFICATION ACT

Mr. CHAFEE. Mr. President, today I am introducing legislation with my colleague from New Jersey, Mr. BRADLEY, which improves the Medicaid Program and removes bureaucratic obstacles that reduce efficiency and confuse the public. These changes will insure that patients who are already eligible for services will receive better and more cost-effective care.

Current Medicaid law and regulations make it difficult for Medicaid-eligible individuals to get enrolled in the program and make it difficult for States to administer the program. The modest provisions that we propose will help simplify the procedures for existing eligibility groups and reduce States administrative burden. These changes will improve client access to the program and permit the States to be more efficient in the administration of the Medicaid Program.

This legislation permits States to extend Medicaid coverage of prenatal care services to undocumented alien pregnant women. Current law limits coverage to delivery or other emergency services for these women without regard to the welfare of the unborn child. This legislation permits the States to offer cost-effective prenatal care so that the infants—many of whom will be Medicaid eligible—have a better chance of being born healthy. A change such as ultimately this will reduce the cost to both States and the Federal Government by reducing the number of children born prematurely or with serious illnesses.

Our bill simplifies the Medicaid application process for legal aliens, permitting one adult household representative to attest to the citizenship status of all household members rather than having each family member go to the eligibility office. This provision would standardize the application process for this information with the Food Stamp Program and permit case workers to use a less burdensome process to get this information.

The bill protects the Medicaid coverage of SSI eligible children and adults in those months when Medicaid coverage is halted because of an extra paycheck. Although the overall annual income of the recipient will not have changed, patients lose Medicaid eligibility for the month in which they receive the extra paycheck because their employer pays on a weekly or biweekly basis. This bureaucratic, paper generating procedure only adds to the administrative nightmare of the Medicaid Program. More importantly, however, is the adverse effect on patient care of the on-again, off-again Medicaid coverage.

Further, our bill improves eligibility for the Medicaid welfare-to-work transitional coverage for eligible families when a family member gets a job. States report that clients often lose Medicaid coverage because of the burdensome and arbitrary client reporting requirements that were enacted with the Family Support Act of 1988. No other group of Medicaid clients has similar eligibility conditions placed on them, and under prior law this transitional coverage was not so onerous. I believe that we should change this requirement in the interest of fairness and uniformity.

Mr. President, it is critical that we make these changes in the Medicaid Program in order to improve the delivery of services and to reduce the administrative burden to make the Medicaid Program more efficient. I urge that we take advantage of an opportunity to simplify eligibility for the people covered by the program and to provide administrative relief for the States that must administer this program. I urge my colleagues to join with Senator Bradley and me in supporting this legislation.

I ask unanimous consent that the text of the bill be printed in the RECORD immediately following my remarks.

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

S. 3212

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; REFERENCE TO SOCIAL SECURITY ACT.

(a) SHORT TITLE.—This Act may be cited as the "Medicaid Eligibility Simplification Act."

(b) REFERENCE TO SOCIAL SECURITY ACT.—Except as otherwise specifically provided, whenever in this Act an amendment 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 that section or other provision of the Social Security Act.

SEC. 2. COVERAGE OF PREGNANCY RELATED SERVICES FOR ALIEN WOMEN DURING PREGNANCY.

(a) IN GENERAL.—Section 1903(v) (42 U.S.C. 1396b(v)) is amended—

(1) in paragraph (1) by striking "paragraph (2)" and inserting "paragraphs (2) and (3)";

(2) in paragraph (2) by striking "only";

(3) by redesignating paragraph (3) as paragraph (4); and

(4) by inserting after paragraph (2) the following new paragraph:

"(3) Payment shall be made under this section for care and services that are furnished, at the option of the State, to an alien woman described in paragraph (1) during pregnancy if—

"(A) such care and services would be available to a woman described in section 1902(1)(1)(A), and

"(B) such alien woman otherwise meets the eligibility requirements for medical assistance under the State plan approved under this title (other than the requirement of the receipt of aid or assistance under title IV, supplemental security income benefits under title XVI, or a State supplementary payment).".

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to payments under title XIX of the Social Security Act for calendar quarters beginning on or after October 1, 1992.

SEC. 3. SIMPLIFICATION OF APPLICATION PROCESS FOR ALIENS.

(a) IN GENERAL.—Section 1902 (42 U.S.C. 1396a) is amended by adding at the end the following new subsection:

"(z) Notwithstanding any other provision of law, in order to meet the requirements of subsection (a)(46) and section 1137 of this Act a State may provide that the signature of an adult representative of each household that is applying for medical assistance under this title is sufficient to comply with any provisions of Federal law requiring household members to sign the application or statements in connection with the application process for such medical assistance, but only if such representative certifies in writing, under penalty of perjury, that the information contained in the application for medical assistance is true and that all members of the household applying for such medical assistance are either citizens or nationals of the United States or are eligible to receive such assistance under this title.".

(b) CONFORMING AMENDMENT.—Section 1902(a)(46) (42 U.S.C. 1936a(a)(46)) is amended by inserting "except as provided in subsection (z)," after "(46)".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to applications for medical assistance under title XIX of the Social Security Act beginning on or after October 1, 1992.

SEC. 4 ELIGIBILITY DETERMINATIONS FOR CERTAIN MONTHS IN THE CASE OF INDIVIDUALS WITH WEEKLY OR BIWEEKLY INCOME.

(a) IN GENERAL.—Section 1611(c) (42 U.S.C. 1382(c)) is amended—

(1) in paragraph (1), by inserting "(subject to paragraph (8))" after "An individual's eligibility for a benefit under this title for a month"; and

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

"(8)(A) If an individual is paid or otherwise receives income in any month on a regular weekly or biweekly basis (or is deemed under section 1614(f) to have income so paid or received), the determination under paragraph (1) of an individual's eligibility for benefits under this title for such month shall be made by treating such amounts as having been paid or received on a monthly basis at the same annual rate if such treatment would result in the individual becoming eligible for such benefits. "(B) For purposes of subparagraph (A)—

"(i) the annual rate of income being paid to or received by an individual on a weekly basis in any month is 52 times the amount of the weekly income during such month (or of the average weekly income, if there is a change in the actual weekly rate during such month), and the annual rate of income being paid to or received by an individual on a biweekly basis in any month is 26 times the amount of the biweekly income during such month (or of the average biweekly income, if there is a change in the actual biweekly rate during such month); and

"(ii) the amount of such income to be considered as being paid to or received by an individual on a regular monthly basis at the "same annual rate' (in such month) is 1/12 of the annual rate determined under clause (i) with respect to the weekly or biweekly income involved.".

(b) EFFECTIVE DATE.—The amendments made by this section shall become effective with respect to determinations of eligibility beginning on or after October 1, 1992.

SEC. 5. OPTIONAL REPORTING REQUIREMENTS UNDER MEDICAID TRANSITIONAL MEDICAL ASSISTANCE.

(a) IN GENERAL.—Section 1925(b)(2)(B) (42 U.S.C. 1396r-6(b)(2)(B)) is amended—

(1) in clause (i), by striking "Each State shall" and inserting "A State may"; and

(2) in clause (ii), by striking "Each State shall" and inserting "A State may".

(b) CONFORMING AMENDMENTS.—Section 1925 (42 U.S.C. 139r-6) is amended—

(1) in subsection (a)(2)(A), by inserting", if any," after "subsection (b)(2)(B)(i)";

(2) in subsection (b)(1), by inserting", if any," after "paragraph (2)(B) (i)";

(3) in subsection (b)(2)(A)(i), by inserting "if any," after "subparagraph (B)(i)," and "subparagraph (B)(ii),";

(4) in subsection (b)(2)(A)(ii), by inserting", if any," after "subparagraph (B)(ii)";

(5) in subsection (b)(3)(A)(iii), by inserting "the State does not require the reporting of such information, or" "unless"; and

(6) the last sentence of subsection (b)(3)(A), is amended to read as follows: "If a State requires a family to report information under paragraph (2)(B)(ii), the State shall make determinations under clause (iii)(III) for a family each time such a report is received.".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to eligibility determinations for calendar quarters beginning on or after October 1, 1992.

SEC. 6. PRESUMPTIVE ELIGIBILITY FOR PREGNANT WOMEN.

(a) QUALIFIED PROVIDER.—Section 1920 (42 U.S.C. 1396r-1) is amended in subsection (b)(2) by inserting "any individual who is employed by the State and who is determined by the State agency to be capable of making determinations of the type described in paragraph (1)(A) or" after "the term 'qualified provider' means".

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to payments under title XIX of the Social Security Act for calendar quarters beginning on or after October 1, 1992.

SEC. 7. MEDICARE PREMIUMS AND COST-SHARING FOR MEDICALLY NEEDY INDIVIDUALS.

(a) IN GENERAL.—Section 1905(p)(1)(B) (42 U.S.C. 1396d(p)(1)(B)) is amended by inserting "or, at the option of the State, who is eligible under section 1902(a)(10)(C)" after "paragraph (2)".

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to payments under title XIX of the Social Security Act for calendar quarters beginning on or after October 1, 1992.

SEC. 8. CLARIFICATION OF INCOME METHODOLOGY USED IN DETERMINING ELIGIBILITY OF CERTAIN MEDICALLY NEEDY INDIVIDUALS FOR MEDICAID BENEFITS.

(a) IN GENERAL.—Section 1903(f) (42 U.S.C. 1396b(f) is amended—

(1) by redesignating paragraph (4) as paragraph (5); and

(2) by inserting after paragraph (3) the following new paragraph:

"(4) With respect to the methodology to be used in determining income and resource eligibility for individuals under section 1902(a)(10)(C)(i)(III), the applicable income limitation described in paragraph (1)(B) shall be compared to the adjusted income of such individuals after the State income methodology has been applied, including methodology allowed under section 1902(r)(2).".

(b) CONFORMING AMENDMENT.—Section 1903(f)(1)(A) (42 U.S.C. 1396b(f)(1)(A)) is amended by striking "(4)" and inserting "(5)".

Mr. BRADLEY. Mr. President, I rise as an original cosponsor of legislation by Senator CHAFEE that will help eliminate some of the bureaucratic barriers that prevent persons living in poverty from being able to receive basic health care services under Medicaid. Many of these barriers prevent pregnant women, who are living in extreme poverty, from receiving prenatal care and well baby care—services we know will help reduce health care costs and that ensure a healthy start for our young children.

I would like to cite one example of the type of problem that persons who are eligible for Medicaid may face in simply trying to cope with the administrative hassles of gaining and maintaining their eligibility. We know that in many professions, workers are paid at irregular intervals, rather than exactly the same paycheck every single month. Yet because of the way Medicaid counts income, persons who receive too much money during a brief period, but which does not exceed any annual limits, may be thrown off of Medicaid. A month or two later, they must again suffer through the lengthy, demoralizing, and sometimes demeaning process to regain their eligibility, because their paycheck may vary seasonally.

This process simply prevents them from receiving basic health care services, during which time they may be forced to receive care in an emergency room as the only available alternative. This results not only in greater hassles for the patient, and greater costs for our society, but also more of both for the State agency who must process several eligibility determinations for the same individual. This bill would correct this absurdity by calculating income in a manner that is consistent with the limits under Medicaid, but does not create rigid and inappropriate barriers that make no sense.

Each of the several provisions in this bill addresses an effort to try to make sure that persons eligible for Medicaid, in particular those essential services to pregnant women, are able to get the services they need. It sounds so simple, but in reality, it is not. We know how Medicaid rates are so low that many doctors refuse to accept those patients. We know how many persons living in poverty may not seek access to primary care services that encourage and maintain good health. We also know that our Federal programs designed to address many of these problems are so fragmented that even those who can benefit from them can't make it through the bureaucratic minefield to do so.

This bill begins a much needed process to identify those barriers and to make those changes in Medicaid that can simplify the excessive bureaucracy and get services to those persons in need. I thank the Senator from Rhode Island for his leadership on this issue and his introduction of this important piece of legislation.

By Mr. DASCHLE (for himself, Mr. PRESSLER, Mr. KERREY, Mr. BURNS, and Mr. PELL):

S. 3213 A bill to authorize the establishment of the Chief Big Foot National Memorial Park and the Wounded Knee National Memorial in the State of South Dakota, and for other purposes; to the Committee on Energy and Natural Resources.

CHIEF BIG FOOT NATIONAL MEMORIAL PARK AND WOUNDED KNEE NATIONAL MEMORIAL ESTABLISHMENT ACT

Mr. DASCHLE. Mr. President, today I am joining with my colleague from South Dakota, Senator PRESSLER, and Senators KERREY, BURNS, and PELL, to introduce legislation that would establish the Chief Big Foot National Memorial Park and the Wounded Knee National Memorial in South Dakota. The purpose of this effort is to acknowledge the historical significance of the armed struggle between the Plains Indians and the U.S. Army that culminated in the massacre of over 300 Lakota Sioux men, women and children at Wounded Knee, SD, on December 29, 1890.

The historical importance of Wounded Knee is clear. This watershed event came at a time of great turbulence and upheaval for the Indians of the Plains, and it signaled an end to a tragic chap-

ter of American history that is often referred to in history texts as the "Indian Wars." What is perhaps more significant is that it marked the turning point in national policy that forced tribes onto smaller and smaller reservations and toward greater and greater dependency on the Federal Government.

On December 15, 1890, Indian agents in the employ of the government, concerned about the potential ramifications of a spiritual movement among the Sioux known as the Ghost Dance revival, attempted to arrest Chief Sitting Bull. When one of his followers shot at the Indian police, they returned fire, mortally wounding Sitting Bull.

Chief Big Foot, Sitting Bull's half brother, took in Sitting Bull's followers. The band fled from the Bad Lands toward the Pine Ridge Reservation. The U.S. Army intercepted the party and accepted an unconditional surrender from Chief Big Foot, and the entire band was escorted to Wounded Knee Creek.

A subsequent skirmish between several of Chief Big Foot's followers and soldiers was initiated by a single gunshot, the origin of which remains undocumented. This exchange quickly escalated into a largely one-sided volley of bullets, leaving approximately 350 to 370 Sioux men, women, and children dead or wounded. The U.S. Army suffered 60 casualties, many of whom were reportedly hit by bullets fired by their comrades.

Those are the facts of the Wounded Knee Massacre. One hundred years later, the 101st Congress passed Senate Congressional Resolution 153, which acknowledged the carnage at Wounded Knee and expressed "congressional support for the establishment of a suitable and appropriate Memorial to those who were so tragically slain at Wounded Knee.

The bill we are introducing today gives substance to that sentiment.

Mr. President, considerable thought has been given to the Wounded Knee Memorial project. It has truly been a joint effort among representatives of the descendants of the victims and survivors of the Wounded Knee massacre, the Oglala Sioux and Cheyenne River Sioux Tribal governments, Members of Congress, the State of South Dakota, and the Department of the Interior.

This effort has traveled a long road. Since 1950, Wounded Knee has been studied six times by the National Park Service and has been identified as a prime candidate for addition to the National Park System. Since 1987, the Lakota tribes and the State of South Dakota have been cooperating to plan for the preservation and interpretation of Wounded Knee.

In Congress, the Senate Select Committee on Indian Affairs held hearings on proposals to establish a Wounded Knee Memorial and Historic Site on September 25, 1990 in Washington, and on April 30, 1991, at the Pine Ridge Indian Reservation.

In May 1991, at the request of the Lakota Sioux and with the support of the Secretary of the Interior, the National Park Service began a study to explore management alternatives for the Wounded Knee site. This process has included strong public participation from the Oglala Sioux Tribe, the Cheyenne River Sioux Tribe, and the Wounded Knee Survivors Associations.

In my mind, there is no doubt our common goal—the establishment of the Chief Big Foot National Park and a Wounded Knee Memorial. However, I do not view the introduction of this legislation today as the culmination of this cooperative effort or the end of public comment.

There are a number of issues addressed in this bill that will require further discussion and refinement, and all interested parties will be encouraged to participate in this process. I anticipate that Park service studies and congressional committees will devote additional time and energy to such issues as land acquisition for Chief Big Foot National Park, design of the Wounded Knee Memorial, and management of the national park and memorial. Additional input from the Oglala Sioux and Cheyenne River Sioux Tribal officials, the Wounded Knee Survivors Associations, individual tribal members, the State of South Dakota, the Department of the Interior, and the Congress undoubtedly will further improve this project. I welcome debate on this proposal and look forward to participating in the deliberation process.

Mr. PRESSLER. Mr. President, today I join my colleague, Senator DASCHLE, in introducing legislation to establish the Chief Big Foot National Memorial Park and the Wounded Knee National Memorial in our home State of South Dakota. These memorials will appropriately acknowledge the historical significance of the sites relating to the Wounded Knee Massacre of 1890, acknowledgement which is long overdue.

During the 101st Congress, the Senate adopted Senate Concurrent Resolution 153, recognizing the 100th anniversary of the Wounded Knee Massacre. This resolution, which I cosponsored, also expressed support for the establishment of a suitable and appropriate memorial to those who were so tragically slain in the 1890 massacre. The legislation we are introducing today is designed to give reality to those words of support.

In December 1890, Chief Big Foot and his band of Minneconjou Sioux journeyed from the Cheyenne River Indian Reservation to the Pine Ridge Indian Reservation to make peace between the Indians and non-Indians. Along the way, a tragic event occurred along Wounded Knee Creek, which runs through the Pine Ridge Reservation, in which over 300 Indian men, women, and children were slain by U.S. Cavalry. The massacre marked the last military encounter of this country's Indian Wars period.

While many Americans have at some time heard of the Wounded Knee Massacre, most do not have a clear understanding of the historical events leading up to the 1890 incident nor of the battle itself. Indians and non-Indians alike must know the truth about this tragic chapter in our history.

The chain of events immediately preceding the massacre began December 15. On that day, several Indian police were ordered by the U.S. Army to arrest Sitting Bull, a revered Sioux leader. In the skirmish that followed, Sitting Bull was killed at his cabin on the Standing Rock Reservation. Refugees from Sitting Bull's camp joined Chief Big Foot's band of Minneconjou Sioux at the Cheyenne River Reservation. Tension and mistrust grew between the U.S. Army and the Indians.

When ordered by the Army to move his people to a nearby fort, Chief Big Foot fled to Chief Red Cloud at the Pine Ridge Reservation for safety, despite the harsh winter conditions. Hemorrhaging and overcome by pneumonia, Chief Big Foot surrendered on December 28, to a detachment of the 7th Cavalry—the same regiment that was wiped out at Little Big Horn under Lieutenant General Custer's command.

The tired and hungry band of Indians was escorted by the cavalry to the battalion bivouac at Wounded Knee Creek, where they made camp for the night. The next morning, Col. James W. Forsyth decided to disarm the Indians to prevent any violence. When only a few weapons were found, a thorough search was ordered. The situation became extremely hostile. The oral history passed on by Indian survivors and the official written reports by Army officers provide conflicting accounts of what happened next.

Apparently, a Sioux Indian named Black Coyote, said to be deaf, refused to give up his rifle. He shouted that he had purchased the weapon for a great deal of money and refused to part with it. In the ensuing scuffle, Black Coyote's gun discharged. An already nervous cavalry began shooting, and a melee broke out. In the senseless violence that followed, over 300 Indians died, including woman and children. Of the approximately 30 soldiers killed, almost all were hit by their own crossfire. A blizzard kept burial parties away until 3 days later, when the bodies were hastily buried in a mass grave. This terrible event marked the end of the American Indian Wars, as well as the end of a spiritual revival movement among the Sioux.

Enactment of this legislation will facilitate a greater understanding of the events associated with the Wounded Knee Massacre and enhance our appre-

ciation of Indian culture, heritage, and history. Proper acknowledgement of the 1890 Wounded Knee Massacre has long been in the making. The massacre site was first marked on May 28, 1903 by a 6-foot granite monument erected by a group of Sioux survivors. Since 1950, Wounded Knee has been studied six times by the National Park Service, which consistently has reaffirmed it as a nationally significant area, and a prime candidate for addition to the National Park System.

In 1965, Wounded Knee was declared a national historic landmark, which offered the site limited protection. Since 1986, the Sioux Indians have remembered the massacre by annually retracing Chief Big Foot's 250-mile route from the Cheyenne River Indian Reservation to the Wounded Knee site at the Pine Ridge Indian Reservation. These efforts properly illustrate the need to enact this legislation, ensuring that sites related to the massacre are preserved and protected.

It should be noted that this legislation may need some fine tuning before it passes the Senate. I look forward to working with Senator DASCHLE, members of the Cheyenne River and Oglala Sioux Tribes, the Governor of South Dakota, the National Park Service, and other organizations to ensure this legislation is implemented with proper consultation with the Indian communities. It is imperative that Indian perspective be included in developing the memorials' interpretive sites.

It is my hope that enhancing national awareness of the Wounded Knee tragedy will promote a greater understanding between Indian and non-Indian cultures and people. This renewed focus on Wounded Knee has awakened a new sense of pride among the Sioux people. This is a tremendous opportunity to educate everyone on Sioux heritage. I urge my colleagues to support this legislation and further the process of reconciliation between Indian and non-Indians.

By Mr. SIMPSON (for himself, Mr. D'AMATO, Mr. SHELBY, and Mr. SEYMOUR):

S. 3214. A bill to amend the immigration and Nationality Act to improve the admissions process at airports and other ports of entry; to the Committee on the Judiciary.

PORT OF ENTRY INSPECTIONS IMPROVEMENT ACT OF 1992

Mr. SIMPSON. Mr. President, I rise today to introduce legislation to address a serious immigration problem at our Nation's international ports of entry. Because of loopholes that exist in our immigration laws, large numbers of illegal aliens are entering the United States at our major ports of entry and are then disappearing into the interior of our country.

The problem is particularly acute at international airports. During the past fiscal year, approximately 37,500 aliens attempted to enter illegally at U.S. ports of entry with either fraudulent documents, or no documents. These aliens have discovered that because we have limited detention space, they will likely be paroled into the community at large if they simply indicate a desire to apply for asylum in the United States. Although these aliens are directed by the Immigration Service to return on a particular date to pursue an asylum application, the majority fail to do so.

At New York's John F. Kennedy Airport, for example during the last 6 months of 1991, 1,855 out of 3,100 aliens who were paroled into the country, failed to appear for a hearing on their claim for asylum. A New York Times article describes this problem in significant detail.

The bill I introduce today will address this problem, while at the same time, preserving and protecting the ability of aliens to present legitimate, good-faith applications for asylum. The bill provides that any alien who uses a fraudulent document to enter the United States, or who uses a document to board an airplane overseas but fails to present that document upon arrival in the United States, would be subject to an immediate order of exclusion by an immigration officer. By enabling the Immigration Service to immediately remove these illegal aliens, we will deter those persons abroad who seek a "free pass" into the United States from inundating our airports; and we will spare our communities the burden and potential risks of absorbing additional illegal aliens.

However, this bill will still protect those aliens who have legitimate claims to asylum, but who attempt to enter the country without proper documents. The legislation would prevent the Immigration Service from immediately removing any alien who has a credible fear of prosecution in the country to which he would be returned. If an alien has such a fear, he would be paroled into the United States, and a hearing on the merits of his asylum claim would be scheduled.

Mr. President, similar legislation was passed by the Senate in 1982 and 1984, and was also passed by the House in 1984, as part of the Immigration Reform and Control Act. Unfortunately, this provision was not included in the final version of that legislation, which was enacted in 1986. Nevertheless, previous support for this important enforcement tool is noteworthy. This is not some extreme, harsh, or radical proposal; but rather, it is one with broad public and bipartisan support. The legislation I introduce today is more specific than the 1984 version, but the intent and the effect are similar. Quite simply put: Legitimate seekers of political asylum should not be turned away at our international airports, but those who seek to abuse our generous immigration and refugee laws to enter the country illegally should be swiftly and surely removed.

I should note that this legislation was transmitted by the administration to the Congress on April 30, 1992. I ask unanimous consent to include in the RECORD the transmittal letter, a copy of the bill, and a section-by-section analysis of the bill prepared by the administration.

I support the administration's proposal, and I encourage its adoption. However, I am not wedded to this version and no other, and I would be most pleased to consider carefully any suggestions that any of my colleagues might have to improve the legislation. This legislation is urgently needed, and I would encourage all my colleagues to give it their earnest support.

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

U.S. DEPARTMENT OF JUSTICE,
OFFICE OF LEGISLATIVE AFFAIRS,
Washington, DC.

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

DEAR MR. PRESIDENT: I am submitting for your immediate consideration and appropriate reference a legislative proposal that addresses a problem of growing concern in the immigration area: the fraudulent use of documents by illegal aliens to gain entry into the United States at U.S. ports-of-entry.

The problem is particularly acute at airports, where nationwide in fiscal year 1991 approximately 37,500 aliens sought illegal entry into the United States with either fraudulent or no documentation. These aliens have discovered that, given the U.S. government's limited detention space, they will likely be "paroled" into the community at large if they simply indicate a desire to apply to asylum in the United States. Although they are directed by the Immigration & Naturalization Service to return at a specified date to file an asylum application, the majority fail to do so. At New York's John F. Kennedy Airport for example, during the last six months of 1991, 1,855 out of 3,100 aliens who were paroled into the community failed to appear for their appointments.

This proposed bill is drafted to address this problematic situation and, at the same time, to preserve and protect those aliens who present legitimate asylum claims. The bill provides that any alien who uses or attempts to use a fraudulent document for entry into the United States, or to board a common carrier for the purpose of coming to the United States, would be subject to an order of exclusion issued by an immigration officer. Such an order would not be subject to direct judicial review, although limited review by writ of habeas corpus would continue to be available. The bill provides a caveat for an alien who used such legitimate claim to asylum.

A provision is also included to provide for exclusion for aliens who use a document to board a common carrier but who then fail to provide the document to the inspector. This provision is designed to deal with the increasingly common practice of presenting fraudulent documents to common carriers and then destroying or discarding them prior to immigration inspection.

Finally, the bill contains a provision which would increase from five years to ten years the maximum term of imprisonment to be imposed for alien smuggling as provided by section 274 of the Immigration & Nationality Act. This section would further provide for the imposition of a term of imprisonment of no more than twenty years in cases of alien smuggling in which the offender causes serious bodily injury to, or places in jeopardy the life of, any alien involved in the offense.

The Office of Management and Budget has advised this Department that there is no objection to the submission of this legislative proposal from the standpoint of the Administration's program. I am forwarding an identical letter to the Speaker of the House. I urge prompt and favorable consideration of this legislative proposal by the Congress.

Sincerely,

W. LEE RAWLS,
Assistant Attorney General.

SECTION-BY-SECTION ANALYSIS—PORT OF ENTRY INSPECTIONS IMPROVEMENT ACT OF 1992

The amendments proposed in this bill address the problem of undocumented and falsely documented aliens who seek to apply for asylum and other immigration benefits upon their arrival in our international airports. The relative ease by which aliens may fly into the United States with fraudulent documents and simply file asylum applications, whether meritorious or not, has induced a floodtide of migrants that seriously threatens the fair and proper administration of our immigration laws. These amendments to the Immigration and Nationality Act (The INA) strengthen our border enforcement programs by providing for the special port of entry exclusion of undocumented and falsely documented aliens, while ensuring that aliens with meritorious asylum claims receive a full and fair hearing.

SECTION 2: RESTRICTIONS ON ADMISSIONS FRAUD

Section 2(a) adds to the categories of aliens excluded from admission to the United States under section 212(a) of the INA, 8 U.S.C. 1182(a), persons who seek to enter with fraudulent, forged, or stolen documents, or persons who fail to present to the immigration officer any document produced when they boarded a common carrier for travel to the United States.

Section 2(b) amends section 208 of the INA, 8 U.S.C. 1158, to provide that any alien who commits admissions fraud, or whose travel document "disappears" en route, may not apply for asylum, unless he or she shows that the fraudulent, forged, or stolen document, or "disappeared" document, was used exclusively to depart from or to avoid return to a country in which he or she has a credible fear or persecution.

An alien who indicates a desire to apply for asylum will be interviewed by specially trained officers who will determine whether he or she has a credible fear of persecution. Credible fear of persecution is defined as the judgment that the alien's statements are probably true and there is a significant possibility the alien could establish that he is a refugee within the meaning of section 101(a)(42)(A) of the INA, 8 U.S.C. 1101(a)(42). Aliens found to have such fear will be permitted to apply for asylum. All other undocumented or falsely documented aliens will be specially excluded from the United States.

Section 2(b) also amends section 212(c) of the INA, 8 U.S.C. 1182(c), to provide that aliens who commit admissions fraud may not obtain a waiver of their exclusion.

SECTION 3: SPECIAL PORT OF ENTRY EXCLUSION

Section 3 amends section 235 of the INA, 8 U.S.C. 1255, to provide that an alien who is excludable for admissions fraud may be ordered specially excluded and removed from the United States without further inquiry or appeal. While the possibility of habeas corpus is preserved (*see* section 4), orders of special exclusion are not subject to judicial review under section 106 of the INA, 8 U.S.C. 1105a, or any other provision of law.

SECTION 4: RESTRICTIONS ON JUDICIAL REVIEW

Section 4 deprives the courts of jurisdiction to review any claims arising out of special exclusion except in the context of the alien's habeas corpus petition. New subsection (f) of 8 U.S.C. section 1225 (INA section 235) bars judicial review of special exclusion for admissions fraud except for habeas corpus inquiry limited to examination of whether the petitioner is an alien and has been ordered specially excluded. New subsection (g) of 8 U.S.C. section 1225 bars judicial review or intervention with respect to the procedures established by the Attorney General for implementing the special exclusion provisions and provides that, except by the specified habeas corpus inquiry, no suit or claim may be heard attacking or seeking to delay the special exclusion of aliens. New subsection (h) of 8 U.S.C. section 1225 provides that judgments of exclusion, special exclusion, or deportation may not be collaterally reviewed in any action for the assessment of penalties for improper entry or reentry of aliens under sections 275 and 276 of the INA, 8 U.S.C. 1325 and 1326.

SECTION 5: ENHANCED PENALTIES FOR CERTAIN ALIEN SMUGGLING

Section 5 amends section 274 of the INA, 8 U.S.C. 1324, to provide increased penalties for alien smuggling in certain situations. Currently, section 274(a)(1) provides for punishment of up to five years' imprisonment for each alien involved in one of the listed offenses. The first amendment raises the authorized punishment to ten years' imprisonment for each such alien.

The second amendment provides for punishment of up to twenty years' imprisonment for each alien involved in cases in which the defendant causes serious bodily injury to or places in jeopardy the life of an alien in the course of the offense. The phrase "puts in jeopardy the life of an alien" is modeled on the bank robbery statute, 18 U.S.C. 2113(d), which provides for greater punishment if the defendant puts in jeopardy the life of someone by the use of a dangerous weapon. However, it is not necessary that a dangerous weapon be used to justify the enhanced punishment under section 274(a)(1). The term "serious bodily injury" is taken from 18 U.S.C. 1365.

S. 3214

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 "Port of Entry Inspections Improvement Act of 1992".

SEC. 2. ADMISSIONS FRAUD.

(a) EXCLUSION FOR FRAUDULENT DOCUMENTS OR FAILURE TO PRESENT DOCUMENTS.—Section 212(a)(6)(C) of the Immigration and Nationality Act (8 U.S.C. 1182(a)(6)(C)) is amended—

(1) by striking "(C) MISREPRESENTATION" and inserting in lieu thereof the following:

"(C) FRAUD, MISREPRESENTATION, AND FAILURE TO PRESENT DOCUMENTS";

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

"(iii) FRAUDULENT DOCUMENTS AND FAILURE TO PRESENT DOCUMENTS.—

"(I) Any alien who, in seeking entry to the United States or boarding a common carrier for the purpose of coming to the United States, presents any document which, in the determination of the immigration officer to whom the document is presented, is forged, counterfeit, altered, falsely made, stolen, or inapplicable to the alien presenting the document, or otherwise contains a misrepresentation of a material fact, is excludable.

"(II) Any alien who, in boarding a common carrier for the purpose of coming to the United States, presents a document which relates or purports to relate to the alien's eligibility to enter the United States, and fails to present such document to an immigration officer upon arrival at a port of entry into the United States, is excludable.".

(b) PROVISION FOR ASYLUM AND OTHER DISCRETIONARY RELIEF.—

(1) Section 208 of the Immigration and Nationality Act (8 U.S.C. 1158) is amended by adding at the end the following new subsections:

"(e)(1) Notwithstanding subsection (a), any alien who, in seeking entry to the United States or boarding a common carrier pursuant to direct departure to the United States, presents any document which, in the determination of the immigration officer to whom the document is presented, is fraudulent, forged, stolen, or inapplicable to the person presenting the document, or otherwise contains a misrepresentation of a material fact, may not apply for or be granted asylum, unless presentation of the document was pursuant to direct departure from—

"(A) a country in which the alien has a credible fear of persecution; or

"(B) a country in which there is a significant danger that the alien would be returned to a country in which the alien would have a credible fear of persecution.

"(2) Notwithstanding subsection (a), an alien who, in boarding a common carrier pursuant to direct departure to the United States, presents any document which relates or purports to relate to the alien's eligibility to enter the United States, and who fails to present such document to an immigration official upon arrival at a port of entry into the United States, may not apply for or be granted asylum, unless presentation of such document was pursuant to direct departure from—

"(A) a country in which the alien has a credible fear of persecution; or

"(B) a country in which there is a significant danger that the alien would be returned to a country in which the alien would have a credible fear of persecution.

"(3)(A) Whenever an immigration officer determines that an alien seeks entry to the United States as described in paragraph (1) or (2) and that the alien has indicated a desire to apply for asylum, the immigration officer shall refer the matter to an immigration officer specially trained to conduct interviews and to make determinations bearing on eligibility for asylum, who shall interview the alien to determine whether presentation of the document was pursuant to departure from—

"(i) a country in which the alien has a credible fear of persecution; or

"(ii) which there is a significant danger that the alien would be returned to a country in which the alien would have a credible fear of persecution.

"(B) If the immigration officer determines that the alien does not have a credible fear

of persecution in the country from which the alien was last present before attempting entry into the United States, and that there is no significant danger that the alien would be returned from such country to a country in which the alien would have a credible fear of persecution, the alien may be specially excluded and deported in accordance with section 235(e). The alien may not appeal such determination.

"(4) As used in this subsection, the term 'credible fear of persecution' means—

"(A) it is more probable than not that the statements made by the alien in support of his or her claim are true; and

"(B) there is a significant possibility, in light of such statements and of such other facts as are known to the officer about country conditions, that the alien could establish eligibility as a refugee within the meaning of section 101(a)(42)(A).".

(2) Section 212(c) of the Immigration and Nationality Act (8 U.S.C. 1182(c)) is amended in the third sentence by inserting before the period "or to any alien who is excludable pursuant to section 212(a)(6)(C)(iii)".

(3) Section 235 of the Immigration and Nationality Act (8 U.S.C. 1225) is amended by adding at the end the following new subsection:

"(d)(1) Subject to paragraph (2), any alien, who has not been admitted to the United States and who is excludable under section 212(a)(6)(C)(iii), is ineligible for withholding of deportation pursuant to section 243(h), and may not apply for withholding of deportation or for any other relief under this Act, except as provided in section 208(e) with respect to asylum.

"(2) An alien under paragraph (1) who has been found ineligible to apply for asylum under section 208(e) may be returned only—

"(A) to a country in which, in the judgment of an immigration officer specially trained to conduct interviews and to make determinations bearing on eligibility for asylum, the alien has no credible fear of persecution upon return; and

"(B) to a country from which, in the judgment of such officer, there is no significant danger that the alien would be returned to a country in which the alien would have a credible fear of persecution.".

(4) Section 237(a) of the Immigration and Nationality Act (8 U.S.C. 1227(a)) is amended—

(A) in the second sentence of paragraph (1) by striking out "Deportation" and inserting in lieu thereof "Subject to section 235(d)(2), deportation"; and

(B) in the first sentence of paragraph (2) by striking out "If" and inserting in lieu thereof "Subject to section 235(d)(2), if".

SEC. 3. SPECIAL PORT OF ENTRY EXCLUSION FOR ADMISSIONS FRAUD.

Section 235 of the Immigration and Nationality Act (8 U.S.C. 1225) (as amended by section 2(b)(3) of this Act) is amended by adding after subsection (d) the following new subsection:

"(e)(1) Subject to paragraph (2), any alien (including an alien crewman) who may appear to the examining immigration officer or to the special inquiry officer during the examination before either of such officers to be excludable under section 212(a)(6)(C)(iii) may be ordered specially excluded and deported by the Attorney General, either by a special inquiry officer or otherwise.

"(2)(A) An alien who has been found ineligible to apply for asylum under section 208(e) may be returned only—

"(i) to a country in which, in the judgment of an immigration officer specially trained to conduct interviews and to make determinations bearing on eligibility for asylum, the alien has no credible fear of persecution upon return; and

"(ii) to a country from which, in the judgment of such officer, there is no significant danger that the alien would be returned to a country in which the alien would have a credible fear of persecution.

"(B) Such special exclusion order is not subject to administrative appeal and shall have the same effect as if the alien has been ordered excluded and deported pursuant to section 236, except that judicial review of such an order shall not be available under section 106 or, except by habeas corpus as herein provided, under any other provision of law.

"(C) Nothing in this subsection may be construed as requiring an inquiry before a special inquiry officer in the case of an alien crewman.".

SEC. 4. RESTRICTIONS ON JUDICIAL REVIEW.

Section 235 of the Immigration and Nationality Act (8 U.S.C. 1225) (as amended by section 3 of this Act) is amended by adding after subsection (e) the following new subsections:

"(f) ALIENS EXCLUDABLE FOR ADMISSIONS FRAUD.—Notwithstanding any other provision of law, no court shall have jurisdiction to review, except by petition for habeas corpus, any determination made with respect to an alien found excludable for admissions fraud pursuant to section 212(a)(6)(C)(iii). In any such case, review by habeas corpus shall be limited to examination of whether the petitioner (1) is an alien, and (2) was ordered specially excluded from the United States pursuant to sections 212(a)(6)(C)(iii) and 235(e).

"(g) INTERVIEWS AND SPECIAL EXCLUSION.—(1) Notwithstanding any other provision of law, no court shall have jurisdiction—

"(A) to review the procedures established by the Attorney General for the determination of admissions fraud pursuant to section 212(a)(6)(C)(iii); or

"(B) to enter declaratory or injunctive relief with respect to the implementation of subsection (d) or (e).

"(2) Notwithstanding the nature of the suit or claim, no court shall have jurisdiction (except by habeas corpus petition as provided in subsection (f)) to consider the validity of any adjudication or determination of special exclusion or to provide declaratory or injunctive relief with respect to the special exclusion of any alien.

"(h) COLLATERAL ENFORCEMENT PROCEEDINGS.—In any action brought for the assessment of penalties for improper entry or reentry of an alien under sections 275 and 276, no court shall have jurisdiction to hear claims collaterally attacking the validity of orders of exclusion, special exclusion, or deportation entered under sections 235, 236, and 242.".

SEC. 5. ENHANCED PENALTIES FOR CERTAIN ALIEN SMUGGLING.

Section 274(a)(1) of the Immigration and Nationality Act (8 U.S.C. 1324(a)(1)) is amended—

(1) by striking "five years" and inserting "ten years"; and

(2) by inserting before the period at the end of paragraph (1) ", except that in any case in which a person causes serious bodily injury to, or places in jeopardy the life of, any alien involved in the offense, such person shall be fined in accordance with the provisions of title 18, United States Code, or imprisoned not more than 20 years for each alien with respect to whom any violation of this paragraph occurs, or both.".

SEC. 6. EFFECTIVE DATE.

The amendments made by this Act shall apply to aliens who arrive in or seek admission to the United States on or after the date of enactment of this Act.

Mr. D'AMATO. Mr. President, I rise today to cosponsor the Port of Entry Inspections Improvement Act of 1992, which Senator SIMPSON is introducing. This legislation seeks to address the problem of undocumented and falsely documented aliens who apply for asylum and other immigration benefits upon their arrival in U.S. international airports. Under the provisions of this bill, any alien who uses a fraudulent document for entry, or to board a plane or other common carrier for the purpose of coming to the United States, would be subject to an order of exclusion by an immigration officer.

Such an order would not be subject to direct judicial review, although limited review by writ of habeas corpus would continue to be available. The bill provides an exception for an alien who used such a document for attempted entry or boarding and who had a legitimate claim to asylum. An alien who states a desire to apply for asylum will be interviewed by specially trained officers who will determine whether the alien has a credible fear of persecution.

Approximately 1.1 million immigrants enter the United States legally each year; 140,000 of these immigrants receive refugee status. Officials estimate that about 1 million more enter the country illegally.

This legislation attempts to address primarily the problem of undocumented illegal aliens arriving in airports. During 1991 in airports nationwide, over 37,000 aliens who had either fraudulent or no proper documentation sought illegal entry into the United States. Unfortunately, INS has limited detention space and these aliens know that they will probably be paroled onto the streets if they state their desire to apply for asylum. For example, during a single 1-month period, December 1991, 1,230 inadmissible aliens arrived at JFK Airport. Only two dozen were detailed; the other 1,200 were paroled into the United States.

At JFK International Airport, during the last 6 months of 1991, 1,855 out of 3,100 aliens scheduled for an asylum hearing did not appear at the scheduled time.

The bill also increases the term of imprisonment for alien smuggling. This is similar to an amendment I introduced last year to the Senate omnibus crime bill and which was passed unanimously.

These provisions to the Immigration and Nationality Act strengthen our port of entry enforcement programs by providing for the special port of entry exclusion of undocumented and falsely documented aliens, while ensuring that aliens with legitimate asylum claims

receive a full and fair hearing as I have explained above.

Mr. President, I urge my colleagues to support this important legislation.

Mr. President, I ask unanimous consent that a copy of a January 27, 1992, Washington Post article entitled "Immigration's Unofficial Open Door" and a copy of a April 20, 1992, Crain's New York Business article entitled "Handling of the Illegals at JFK is Just Plain Dumb" be printed in their entirety following the conclusion of my remarks.

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

IMMIGRATION'S UNOFFICIAL OPEN DOOR—ILLEGAL ENTRANTS SWAMP KENNEDY AIRPORT'S DETENTION FACILITIES

(By Al Kamen)

NEW YORK—It used to be difficult to gain illegal entry into the United States.

Gaining illegal entry used to evoke images of families driving through Mexico in vans, then sneaking by the Border Patrol in the dead of night.

Many still enter the United States by crossing the Rio Grande at night, but there's no need for such hassle. Anyone who wants to come to the United States need only buy a plane ticket and arrive at New York's John F. Kennedy International Airport. The border here is open, according to Immigration and Naturalization Service officials.

A flood of illegal arrivals at Kennedy, expected to exceed 10,000 this year, has swamped INS detention facilities there.

As a result, virtually everyone is allowed in. Those without proper entry documents, such as a tourist visa, are detained briefly at the airport and told to appear at a hearing before an immigration judge—14 months later. Most never show up.

"The numbers are so great now that the word is clearly out that there is a lack of a deterrent at Kennedy airport," said INS district director William S. Slattery. "As such, anybody in the world who wants to come can come."

Last month, a record 1,250 illegal entrants, mostly East Asians and Chinese, landed at JFK. Two years ago, no more than about 500 illegal entrants arrived at the airport in any month. "We anticipate we'll be up to 1,500 by March," Slattery said. "It's just growing and growing" as smugglers and others discover "we just don't have the resources to prevent them from coming in."

The numbers of these new airport arrivals are relatively small by comparison with the hundreds of thousands of illegal entrants who cross the Mexican border. But the number of people without proper documents who were caught at airports more than doubled between fiscal years 1987 and 1990, to 43,580, according to INS figures.

INS officials say most of the illegal entrants board a plane, often with fraudulent documents that they destroy en route. If they are assisted by a smuggler, the smuggler gathers the documents on the plane so they can be used again. Many illegal entrants come without any identification papers.

The INS accepts "whatever name they give us, whatever nationality they want to claim." Slattery said "So the fellow who purports to be a freedom fighter from Afghanistan could be a taxicab driver from Cairo," he said "Here's the irony. We then give them a U.S. government document . . . with a number and picture and fingerprint on it . . . to prove they are who they verbally represented to us."

The New York INS office has space for only about 190 prisoners—90 at a jail in Manhattan and 100 at a privately run jail in Queens.

By law, the INS cannot summarily return anyone who wants to enter the United States. "We require an immigration judge to make a determination on admissibility and most of these people claim asylum before the judge to slow the process down," Slattery said. "The turnover [in detention] is so slow that I can only introduce 20 new inmates a month. That's less than a day's work. In this district, if you are not in detention. I cannot get you before an immigration judge until 1993."

Los Angeles International Airport had a similar problem, according to the INS district director there, Robert M. Moschorak. As many as 1,000 illegal passengers arrived at Los Angeles in November 1990 and again the next month. When a new detention center opened in early 1991, allowing the INS to detain as many as 800 people, the number of new illegal entrants dropped to about 250 a month.

"There is no question in my mind that word got back quickly to the sending countries" that new arrivals would face long detention, Moschorak said.

But as illegal entrants plummeted in Los Angeles, the numbers rose in New York in what appears to be a global cat-and-mouse game. "I think I've got some of Moschorak's traffic," New York's Slattery said of his Los Angeles colleague, "because Moschorak has a deterrent [expanded detention facilities] that I do not enjoy.

Adding to the number of detention spaces in New York is not the best solution, INS officials said. First, each bed costs about $100 a day. To pay for the new beds, INS would likely have to cut back on airport inspectors. Fewer inspectors would result in long lines and waits for the 10 million passengers—5 million citizens and 5 million foreigners—who arrive at Kennedy each year.

Furthermore, INS officials said, increasing detention capacity at one airport could simply divert many illegal arrivals to another one.

INS officials have felt for years that the only long-term solution to problems at the airports is to change the law—allowing what is called "summary exclusion" of illegal entrants. That would mean anyone applying for admission would have a prompt screening of their request at the airport. A determination would be made then as to whether the applicant should stay while his or her claim is reviewed. The goal would be to sort out the frivolous claims from the legitimate ones.

Refugee advocates denounced the proposal. "Such a move would violate constitutional due process and would be incompatible with the Refugee Act of 1980," said Arthur Helton of the Lawyers Committee on Human Rights. "It's on an INS wish list, but it's forbidden by law and it's unlikely the law will change," he said. The applicants "have a right to a hearing on their claim for protection."

Meanwhile, people keep arriving at the airport.

On a recent Monday—generally a slow day for immigration inspectors—thousands of passengers from overseas arrived during the peak afternoon hours. Only a few were detained in INS holding areas. Most were quickly released.

In one holding room, three men who refused to talk to officials, saying they spoke only Punjabi, sat for hours waiting for an interpreter. They had arrived the night before. In another holding room a man from Liberia, two from China and two from India sat awaiting interpreters and interrogation.

The Liberian, George Oweh, said he was a 28-year-old student from Monrovia fleeing his country's brutal civil war. Troops, "looking for food or whatever," came to his home and killed his parents and three brothers, he said, and he left two months ago. He said he went to Guinea and then Ghana, where he sold his mother's gold ornaments to a smuggler who took everything in order to get him to Togo, then Brussels and eventually here.

Oweh, who said he knew no one in this country, had $222 in his pocket and said that, if he were released, he would wander about New York "hoping to meet a Liberian person who would help me" find a job and shelter.

Asked what would happen to Oweh once he was interrogated, the INS area port director, Roseanne C. Sonchik, said, "He'll be released, there's no space. He'll be here a few hours." One of the Indian men, who initially refused to be photographed or fingerprinted, might be detained longer, she said. "Eventually, he'll be on the street, so he figures it's worth it."

Many of those detained recently will not allow themselves to be photographed or fingerprinted. Slattery said, "And they won't engage in any conversation with you at all. . . . They are calling our bluff. They're saying, I'm not even going to tell you my name, you're not going to get my fingerprints and I know there's very little you can do with me."

There are nearly 400 inspectors at Kennedy, more than ever, Slattery said, who use computerized lookout lists to check everyone who arrives.

"Why does the United States government think we need 400 . . . inspectors out at Kennedy airport?" Slattery asked. "Why do we pay the benefits for 400 people? If it's to prevent individuals from entering the United States, that's not happening . . . at least today it's not."

Those who do not cooperate, at least to the extent that they are fingerprinted and photographed, are the most likely to be detained—if there is a bed available—"so I can say we do send someone back," Slattery said.

Refugee advocates say the INS detention procedures often lead to people with bona fide asylum claims being among those confined, often for several months.

A proposal under study within the INS would have trained asylum officers at airports to screen asylum seekers as they arrive. That "would introduce rationality to the process," Helton said, "so those with strong asylum claims would be released and those who pose a danger to the community would be confined" pending resolution of their claims.

HANDLING OF THE ILLEGALS AT JFK IS JUST PLAIN DUMB

Do you sometimes have the uneasy feeling that at every level of government you can find "dumb?"

Take this business of illegal aliens arriving at Kennedy. It's been in all the papers. A passenger jet lands at JFK carrying a couple of hundred people from one foreign country or another and like cattle they're herded into the vast reception halls of the international arrival building down various dank corridors.

First come the immigration formalities; later, the customs. On the plane every pas-

senger's been given a form to fill out. Now, inside the arrivals building, passengers are chivvied this way or that, depending on citizenship. Yanks go one way, foreigners another.

Nothing unfair or denigrating about this. The Brits do it the same way at Heathrow, the French at Charles de Gaulle. Give a break to the home folks. But at JFK, when the long queues of arriving foreign passengers shuffle toward the immigration gates, the trouble starts.

Some of the recently arrived foreigners lack passports or visas or both. How this happens, I cannot explain. But what happens from here on out is pretty stupid.

The rules say that no one can enter the United States without a valid passport and, in most instances, a visa. But these folks are already here. So what do the authorities do with them? Why, at JFK, after delay and wrangling and debate and I'm sure an element of frustration on both sides, the illegal aliens, for that's what they are, are released through immigration and customs and given an appearance ticket to report back into the immigration service at some future date.

I don't need to tell you few of these people ever report back anywhere. Instead, they disappear into the Carey buses and the subways and the taxicabs and into the maw of the great city itself. The reason? Because JFK lacks a detention center sufficiently large to hold all the illegals who pass through there every day.

Now we are told such a detention center is going to be built. It will cost a little taxpayer money but what the hell, when did the government ever worry about a little taxpayer money?

But until they get this airport jail built, and considering how long it takes the government to repair a door knob, illegal aliens arriving on our shores will continue to be interrogated and harassed a bit and then let loose into the Land of the Free and the Home of the Brave.

This is not a knock on immigration officers out at Kennedy. They do a splendid job. It is a rap on a system that's just plain dumb.

I don't know about you but I've never once gotten on an international flight anywhere in the world without being required at the check-in desk to produce a valid passport and, where it was obtained, a visa. You just don't stroll through waving your ticket. You have to show the passport. So how do all these illegals arrive here without the right papers? They're being permitted to board airplanes at their airports of origin without being checked out.

So I have an idea. The next time Air Pakistan or Air Asia or Air Shangri-La arrives with even a single illegal alien at JFK, the authorities don't detain the guy or give him a free ride into Manhattan. They put him right back on that same plane, refusing him entry. The plane is then going to have to carry a non-paying passenger back to where he came from. And if it's a crowded plane, they may have to dump a paying passenger to do so.

Send a few illegals back home at the expense of the airline that brought them here and you will solve this problem rather swiftly. At the other end the ticket clerks are going to start doing what they ought to be doing, asking to see the passport and the visa before anyone boards a plane for JFK.

It's so simple you wonder why it hasn't occurred to those people who are now planning to build this great detention center.

By Mr. KASTEN (for himself, Mr. LIEBERMAN, and Mr. MACK):

S. 3215. A bill to amend the Internal Revenue Code of 1986 to provide incentives for investments in disadvantaged business enterprises; to the Committee on Finance.

MINORITY ENTERPRISE DEVELOPMENT ACT

Mr. KASTEN. Mr. President, I rise today with Senators LIEBERMAN and MACK to introduce a bill which could significantly expand the number of minority-owned small business owners across the country by increasing the flow of venture capital to minority entrepreneurs.

This legislation, the Minority Enterprise Development Act of 1992 is close companion to H.R. 4221 introduced in the House of Representatives in February by House Small Business Committee Chairman JOHN LAFALCE. It was introduced with bipartisan original cosponsors, including the ranking member on the House Small Business Committee, Representative ANDY IRELAND.

Both bills would provide tax deductions and targeted capital gains tax relief for individuals and corporations that invest in minority-owned businesses. My bill also offers the option of a tax credit in place of the tax deduction in order to provide more choices for investors. This tax relief would be provided for those who invest directly or through a special investment fund designated to provide capital for minority-owned businesses.

The increased need for capital for minority entrepreneurs was brought to my attention by Bill Beckett, president and CEO of Future Value Ventures Inc., a specialized small business investment company (SSBIC) based in Milwaukee, WI. Future Value Ventures is an SSBIC licensed and accredited by the Small Business Administration to make investments in minority-owned small businesses.

The story of Future Value Ventures is impressive. Started in 1984, they are the only SSBIC in Wisconsin. In the past 8 years Future Value Ventures has placed over $1.5 million in eight companies, six of which are continuing to grow and thrive today.

Their problem of raising investment capital is not unlike the other 135 SSBIC's across the country. Investors are often more hesitant to take a risk on a minority-owned company. This problem was underscored by the U.S. Commission on Minority Business Development, who released a report last year stating that lack of capital was "one of the most formidable stumbling blocks to the formation and development of minority business."

The truth is that SSBIC's have had a very successful record in locating promising entrepreneurs and helping to create jobs. Approximately 20,000 firms have received financing in the last 20 years of the SSBIC Program—15,000 in the last 10 years. Over $1 billion has gone into minority-owned firms in the last decade, and nearly half of this amount went to new companies. Between 1987–89, SSBIC's helped provide capital to create over 50,000 jobs. SSBIC's clearly have developed the necessary skills to direct capital to profitable ventures.

Mr. President, I want to stress that this tax relief is targeted to focus the benefits on the minority business sector—urban and rural. Small business is clearly the engine of job creation. Two-thirds of all new jobs created in the last decade can be credited to small business.

The concept behind this legislation is being discussed both in the Senate and the House, and by Republicans and Democrats alike. Congress has the ability to give a real boost to minority entrepreneurship. This is exactly the type of legislation that can bring opportunity to those who have few chances for upward mobility. Investment capital for minority entrepreneurs can provide the best opportunity to climb the economic ladder and create more jobs for people across the country.

By Mr. MOYNIHAN:

S. 3216. A bill to direct the Secretary of the Army to conduct an investigation of the long Island Sound that includes the development and construction of a model, and for other purposes; to the Committee on Environment and Public Works.

LONG ISLAND SOUND COMPREHENSIVE IMPROVEMENT ACT

• Mr. MOYNIHAN. Mr. President, I rise today to introduce the Long Island Sound Improvement Act of 1992.

This bill authorizes the Army Corps of Engineers, in consultation with the Environmental Protection Agency , to develop a comprehensive plan of improvement for the Long Island Sound. Various bills in the past have addressed the many problems confronting the sound and its many surrounding communities. And there are many complex problems. Water quality, high nutrient levels, navigation, hurricane and storm protection and, of course, continual beach erosion.

Various programs are ongoing, are well intended and have my support. The Management Conference on Long Island Sound, for example, is addressing the problems of pollution in the sound. The Congress has also approved other studies by the Corps of Engineers and the Environmental Protection Agency. This bill would give these efforts a new unified focus. The corps would identify all ongoing studies, assess the problems and recommend effective solutions.

In addition, this bill would provide for the development of two models. One, an analytical model to chart water circulation and therein pollutants; and, a second large-scale physical model of the sound to be housed in a public education center. Here we take

advantage of the corps' unique expertise in solving complex water problems.

Mr. President, we also have an opportunity here to develop and test new and innovative technology to the benefit of the Nation. We do too little of that. Let's take this small step in that direction.

This historic body of water is a national asset. It has served the East Coast's largest port for over 200 years. It deserves our attention.●

By Mr. DECONCINI:

S.J. Res. 333. Joint resolution designating the week beginning February 7, 1993, as "Lincoln Legacy Week"; to the Committee on the Judiciary.

LINCOLN LEGACY WEEK

● Mr. DECONCINI. Mr. President, it is with great pleasure and pride that I rise to introduce a joint resolution designating the week beginning February 7, 1993, as Lincoln Legacy Week.

In the spring of 1989, students Carol Bien-Wilner, Lizz Cohen, Jaime Lewis, Carol Mack, Ilene Mass, and Heidi Sherman from Saguaro High School in Scottsdale, AZ, together with their history teacher John Calvin, stood at the steps of the Lincoln Memorial. As they recalled the historic events that occurred there and reflected upon America's continuing commitment to democracy and liberty for all people, an idea was born. This moment was a catalyst for an inspired undertaking—the desire to create a museum at the Lincoln Memorial to commemorate the living legacy of Lincoln. These students pledged to work together to accomplish their goal.

The students began with a simple plan to place a plaque at the Lincoln Memorial commemorating Dr. Martin Luther King, Jr.'s "I Have A Dream" speech. They collected 2,000 signatures in 4 days to support their proposal. They lobbied former Gov. Rose Mofford for a proclamation in support of the project and she complied. During the fall of 1990, with the assistance of the American Federation of Teachers, they returned to Washington, DC, and presented their ideas to Members of Congress and received bipartisan support. When the students met with National Park Service officials, they received a positive response. The Park Service had already been considering a similar project * * *. After many meetings with more congressional and other officials and many successes, they received bad news. The Commemorative Works Act prohibits placing plaques at National Memorials. They were nevertheless undaunted by the news and forged ahead. Instead of a simple plaque, these students decided on a museum to commemorate all the accomplishments of Lincoln.

After a year of hard work and perseverance, the group from Arizona mobilized 17 students from 16 States who gathered together in Washington, DC, in November 1990, under the auspices of the American Federation of Teachers and the Close Up Foundation, for an intensive study of Lincoln's legacy and a series of meetings with Park Service managers and exhibit specialists. The students played an active role in the meetings and even prepared designs for the museum. They were successful in maintaining the integrity of the project, and solicited ideas from students across the Nation whose contributions will be reflected in the exhibits at what will be the Lincoln Memorial Museum.

In February 1992, a core group of students from across the Nation began a nationwide penny drive, appropriately named "Pennies Make a Monumental Difference," to raise the $300,000 necessary for the new Lincoln Memorial Museum. Their campaign, organized with very little private sector support, has been a success. The Lincoln Memorial Museum is scheduled to open in August 1993, the anniversary of King's historic "I Have A Dream" speech in Washington, DC. It will be a museum belonging not only to the thousands of young people who donated their pennies but to all peoples of the world. It is a shining example of what a grassroots effort is all about.

Mr. President, these young people were inspired by Lincoln to pursue a dream. They not only accomplished their original goal, but have achieved much more. I urge my colleagues to join me in expressing our deep pride in the students across this Nation who through hard work and deep conviction have realized a dream by cosponsoring this resolution. I ask unanimous consent that the joint resolution be printed in the RECORD at the conclusion of my remarks.

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

S.J. RES. 333

Whereas Abraham Lincoln exemplified honesty and fairness to all people, generosity of spirit, and unswerving dedication to upholding democracy, human dignity, and the integrity of the United States of America;

Whereas February 12, 1993, marks the anniversary of the birth of Abraham Lincoln;

Whereas Abraham Lincoln is revered throughout the world for his vision of freedom and equality;

Whereas Abraham Lincoln's contributions have touched the lives of the people of the United States;

Whereas Abraham Lincoln's legacy of freedom and equality for all people continues to capture the imagination of humanity;

Whereas the life and ideals of Abraham Lincoln are commemorated by the Lincoln Memorial;

Whereas the Lincoln Memorial has served as a platform for individuals to exercise their democratic freedoms in support of civil rights, equal rights, and constitutional rights;

Whereas the legacy of Abraham Lincoln has inspired individuals in the United States, such as Dr. Martin Luther King, Jr., to gather at the Lincoln Memorial to share their dreams and lift their voices for a better United States;

Whereas the youth of the United States will display the ideals of freedom and civil rights by joining in the national "Pennies Make a Monumental Difference" campaign, which emphasizes the importance of the involvement of individuals;

Whereas during the week beginning February 7, 1993, students across the Nation will study the legacy of Abraham Lincoln and participate in the "Pennies Make a Monumental Difference" campaign to support new exhibits at the Lincoln Memorial; and

Whereas during the week beginning February 7, 1993, activities will occur that are designed to encourage people to promote the legacy of Abraham Lincoln and further the ideals of freedom and equality for all: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the week beginning February 7, 1993, is designated as "Lincoln Legacy Week", and the President is authorized and requested to issue a proclamation calling on the people of the United States to observe the week with appropriate ceremonies and activities.●

By Mr. AKAKA (for himself, Mr. INOUYE, and Mr. SIMON):

S.J. Res. 335. Joint resolution to acknowledge the 100th anniversary of the January 17, 1893, overthrow of the Kingdom of Hawaii, and to offer an apology to native Hawaiians on behalf of the United States for the overthrow of the Kingdom of Hawaii; to the Committee on the Judiciary.

KINGDOM OF HAWAII APOLOGY ACT

Mr. AKAKA. Mr. President, January 17 of next year will mark the 100th anniversary of an event in American history which has had a profound impact on the destiny of the native Hawaiian people. I am speaking of the overthrow of the Kingdom of Hawaii on January 17, 1893.

Not until our Nation understands the significance of the events surrounding the overthrow of the Kingdom of Hawaii will the American people appreciate the meaning of the native Hawaiian rights movement which grows stronger every day.

I have often been asked, "Why is there so much turmoil within the Hawaiian community? Aren't native Hawaiians happy to be Americans?" The fact is, Mr. President, that many Hawaiians, like myself, love America. We love what America stands for. Native Hawaiians have fought alongside their American brothers and sisters to defend the cherished principles of freedom and democracy in wars that took us far from home. Nevertheless, like all great countries, the United States has made mistakes. A nation can only grow stronger by acknowledging and learning from the errors of the past. It is an understatement to say that many native Hawaiians proud as they may be to be Americans, are deeply hurt about our country's failure to recognize its complicity in the 1893 overthrow of the Hawaiian monarchy.

The resolution I am introducing today will recognize a chapter in America's history that must never be forgotten. My resolution calls upon Congress to acknowledge the 100th anniversary of the January 17, 1893, overthrow of the Kingdom of Hawaii, and offer an apology to native Hawaiians on behalf of the United States for its complicity in this event. My resolution also urges the Federal Government to use the 100th anniversary as a foundation for further actions to achieve reconciliation between the United States and the native Hawaiian people.

The need for reconciliation is long overdue. In recent years, the Bush administration has made every attempt to ensure that native Hawaiians are not given the same political rights enjoyed by other native Americans. These efforts include constitutional challenges to legislation extending benefits to native Hawaiians on the basis that such legislation creates suspect classification. The Federal Government has also sought to absolve itself of responsibilities under federally created legislation like the Hawaiian Homes Commission Act of 1920.

When it comes to native Hawaiians, the Bush administration has a total blind spot. In their view, one of the largest indigenous populations in the United States, native Hawaiians, simply does not exist. The most recent example of its negligent Federal policy towards native Hawaiians occurred during the Earth Summit in Rio de Janeiro, Brazil, in June. Chapter 3 of the U.S. National Report for the United Nations Conference on Environment and Development [UNCED], entitled "Indigenous Peoples," makes no mention of the unique historical and political relationship which exists between the United States and the native Hawaiian people. Yet the chapter thoroughly covers the political relationships between the Federal Government and native American Indians, Alaska Natives, and the people of the U.S. insular areas—America Samoa, Guam, the Commonwealth of the Northern Marianas, Puerto Rico, and the U.S. Virgin Islands.

How can the United States hope to educate the world community about its indigenous peoples, if we continue to ignore the existence of native Hawaiians in national reports and Federal policy?

Few Americans know that the Kingdom of Hawaii was a highly organized, civilized, and sovereign nation from the unification of the Hawaiian Islands under King Kamehameha I in 1810 until the overthrow of its last monarch, Queen Liliuokalani, in 1893.

Few Americans appreciate that for close to 70 years, between 1826 and 1893, the United States recognized the independence of the Kingdom of Hawaii, extended full and complete diplomatic recognition to the Hawaiian Government and entered into treaties and conventions with the Hawaiian monarchs to govern commerce and navigation.

Americans do not understand that without the active support and intervention by U.S. diplomatic and military representatives, the overthrow of Queen Liliuokalani on January 17, 1893, would have failed for lack of popular support and insufficient arms.

Finally, few Americans know that in a message to Congress on December 18, 1893, President Grover Cleveland described the overthrow of Queen Liliuokalani as an "act of war, committed with the participation of a diplomatic representative of the United States without the authority of Congress", and acknowledged that by such acts the government of a peaceful and friendly people was overthrown.

Americans must pause to consider these facts as the 100th anniversary of the overthrow of the Kingdom of Hawaii nears. They should begin by reading the complete text of President Cleveland's message which I ask unanimous consent to be printed in the RECORD.

I urge my Senate colleagues to join me in supporting my resolution to offer an apology to native Hawaiians on behalf of the United States for the overthrown of the Kingdom of Hawaii. Only then, Mr. President, will Americans truly understand the moral justice behind the native Hawaiian rights movement. And only then, Mr. President, can native Hawaiians begin to heal their pain and feel like full-fledged and respected Americans.

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

PRESIDENTIAL MESSAGE

To the Senate and House of Representatives:

In my recent annual message to the Congress I briefly referred to our relations with Hawaii and expressed the intention of transmitting further information on the subject when additional advices permitted.

Though I am not able now to report a definite change in the actual situation, I am convinced that the difficulties lately created both here and in Hawaii and now standing in the way of a solution through Executive action of the problem presented, render it proper, and expedient, that the matter should be referred to the broader authority and discretion of Congress, with a full explanation of the endeavor thus far made to deal with the emergency and a statement of the considerations which have governed my action.

I suppose that right and justice should determine the path to be followed in treating this subject. If national honesty is to be disregarded and a desire for territorial extension, or dissatisfaction with a form of government not our own, ought to regulate our conduct, I have entirely misapprehended the mission and character of our Government and the behavior which the conscience of our people demands of their public servants.

When the present Administration entered upon its duties the Senate had under consideration a treaty providing for the annexation of the Hawaiian Islands to the territory of the United States. Surely under our Constitution and laws the enlargement of our limits is a manifestation of the highest attribute of sovereignty, and if entered upon as an Executive act, all things relating to the transaction should be clear and free from suspicion. Additional importance attached to this particular treaty of annexation, because it contemplated a departure from unbroken American tradition in providing for the addition to our territory of islands of the sea more than two thousand miles removed from our nearest coast.

These considerations might not of themselves call for interference with the completion of a treaty entered upon by a previous Administration. But it appeared from the documents accompanying the treaty when submitted to the Senate, that the ownership of Hawaii was tendered to us by a provisional government set up to succeed the constitutional ruler of the islands, who had been dethroned, and it did not appear that such provisional government had the sanction of either popular revolution or suffrage. Two other remarkable features of the transaction naturally attracted attention. One was the extraordinary haste—not to say precipitancy—characterizing all the transactions connected with the treaty. If appeared that a so-called Committee of Safety, ostensibly the source of the revolt against the constitutional Government of Hawaii, was organized on Saturday, the 14th day of January; that on Monday, the 16th, the United States forces were landed at Honolulu from a naval vessel lying in its harbor; that on the 17th the scheme of a provisional government was perfected, and a proclamation naming its officers was on the same day prepared and read at the Government building; that immediately thereupon the United States Minister recognized the provisional government thus created; that two days afterwards, on the 19th day of January, commissioners representing such government sailed for this country in a steamer especially chartered for the occasion, arriving in San Francisco on the 28th day of January, and in Washington on the 3d day of February; that on the next day they had their first interview with the Secretary of State, and another on the 11th, when the treaty of annexation was practically agreed upon, and that on the 14th it was formally concluded and on the 15th transmitted to the Senate. Thus between the initiation of the scheme for a provisional government in Hawaii on the 14th day of January and the submission to the Senate of the treaty of annexation concluded with such government, the entire interval was thirty-two days, fifteen of which were spent by the Hawaiian Commissioners in their journey to Washington.

In the next place, upon the face of the papers submitted with the treaty, it clearly appeared that there was open and undetermined an issue of fact of the most vital importance. The message of the President accompanying the treaty declared that "the overthrow of the monarchy was not in any way promoted by this Government," and in a letter to the President from the Secretary of State, also submitted to the Senate with the treaty, the following passage occurs: "At the time the provisional government took possession of the Government buildings no troops or officers of the United States were present or took any part whatever in the proceedings. No public recognition was accorded to the provisional government by the Untied States Minister until after the Queen's abdication and when they were in effective possession of the Government build-

ings, the archives, the treasury, the barracks, the police station, and all the potential machinery of the Government." But a protest also accompanied said treaty, signed by the Queen and her ministers at the time she made way for the provisional government, which explicitly stated that she yielded to the superior force of the United States, whose Minister had caused United States troops to be landed at Honolulu and declared that he would support such provisional government.

The truth or falsity of this protest was surely of the first importance. If true, nothing but the concealment of its truth could induce our Government to negotiate with the semblance of a government thus created, nor could a treaty resulting from the acts stated in the protest have been knowingly deemed worthy of consideration by the Senate. Yet the truth or falsity of the protest had not been investigated.

I conceived it to be my duty therefore to withdraw the treaty from the Senate for examination, and meanwhile to cause an accurate, full, and impartial investigation to be made of the facts attending the subversion of the constitutional Government of Hawaii, and the installment in its place of the provisional government. I selected for the work of investigation the Hon. James H. Blount, of Georgia, whose service of eighteen years as a member of the House of Representatives, and whose experience as chairman of the Committee of Foreign Affairs in that body, and his consequent familiarity with international topics, joined with his high character and honorable reputation, seemed to render him peculiarly fitted for the duties entrusted to him. His report detailing his action under the instructions given to him and the conclusion derived from his investigation accompany this message.

These conclusions do not rest for their acceptance entirely upon Mr. Blount's honesty and ability as a man; nor upon his acumen and impartiality as an investigator. They are accompanied by the evidence upon which they are based, which evidence is also herewith transmitted, and from which it seems to me no other deductions could possibly be reached than those arrived at by the Commissioner.

The report with its accompanying proofs, and such other evidence as is now before the Congress or is herewith submitted, justifies in my opinion the statement that when the President was led to submit the treaty to the Senate with the declaration that "the overthrow of the monarchy was not in any way promoted by this Government", and when the Senate was induced to receive and discuss it on that basis, both President and Senate were misled.

The attempt will not be made in this communication to touch upon all the facts which throw light upon the progress and consummation of this scheme of annexation. A very brief and imperfect reference to the facts and evidence at hand will exhibit it character and the incidents in which it had its birth.

It is unnecessary to set forth the reasons which in January, 1893, led a considerable proportion of American and other foreign merchants and traders residing at Honolulu to favor the annexation of Hawaii to the United States. It is sufficient to note the fact and to observe that the project was one which was zealously promoted by the Minister representing the United States in that country. He evidently had an ardent desire that it should become a fact accomplished by his agency and during his ministry, and was not inconveniently scrupulous as to the means employed to that end. On the 19th day of November, 1892, nearly two months before the first overt act tending towards the subversion of the Hawaiian Government and the attempted transfer of Hawaiian territory to the United States, he addressed a long letter to the Secretary of State in which the case for annexation was elaborately argued, on moral, political, and economical grounds. He refers to the loss to the Hawaiian sugar interests from the operation of the McKinley bill, and the tendency to still further depreciation of sugar property unless some positive measure of relief is granted. He strongly inveighs against the existing Hawaiian Government and emphatically declares for annexation. He says: "In truth the monarchy here is an absurd anachronism. It has nothing on which it logically or legitimately stands. The federal basis on which it once stood no longer existing, the monarchy now is only an impediment to good government—an obstruction to the prosperity and progress of the islands."

He further says: "As a crown colony of Great Britain or a Territory of the United States the government modifications could be made readily and good administration of the law secured. Destiny and the vast future interests of the United States in the Pacific clearly indicate who at no distant day must be responsible for the government of these islands. Under a territorial government they could be as easily governed as any of the existing Territories of the United States." * * * "Hawaii has reached the parting of the ways. She must now take the road which leads to Asia, or the other which outlets her in America, gives her an American civilization, and binds her to the care of American destiny." He also declares: "One of two courses seems to me absolutely necessary to be followed, either bold and vigorous measures for annexation or a 'customs union,' an ocean cable from the Californian coast to Honolulu, Pearl Harbor perpetually ceded to the United States, with an implied but not expressly stipulated American protectorate over the islands. I believe the former to be the better, that which will prove much the more advantageous to the islands, and the cheapest and least embarrassing in the end to the United States. If it was wise for the United States through Secretary Marcy thirty-eight years ago to offer the expend $100,000 to secure a treaty of annexation, it certainly can not be chimerical or unwise to expend $100,000 to secure annexation in the near future. To-day the United States has five times the wealth she possessed in 1854, and the reasons now existing for annexation are much stronger than they were then. I can not refrain from expressing the opinion with emphasis that the golden hour is near at hand."

These declarations certainly show a disposition and condition of mind, which may be usefully recalled when interpreting the significance of the Minister's conceded acts or when considering the probabilities of such conduct on his part as may not be admitted.

In this view it seems proper to also quote from a letter written by the Minister to the Secretary of State on the 8th day of March, 1892, nearly a year prior to the first step taken toward annexation. After stating the possibility that the existing Government of Hawaii might be overturned by an orderly and peaceful revolution, Minister Stevens writes as follows: "Ordinarily in like circumstances, the rule seems to be to limit the landing and movement of United States forces in foreign waters and dominion exclusively to the protection of the United States legation and of the lives and property of American citizens. But as the relations of the United States to Hawaii are exceptional, and in former years the United States officials here took somewhat exceptional action in circumstances of disorder, I desire to know how far the present Minister and naval commander may deviate from established international rules and precedents in the contingencies indicated in the first part of this dispatch."

To a minister of this temper full of zeal for annexation there seemed to arise in January, 1893, the precise opportunity for which he was watchfully waiting—an opportunity which by timely "deviation from established international rules and precedents" might be improved to successfully accomplish the great object in view; and we are quite prepared for the exultant enthusiasm with which in a letter to the State Department dated February 1, 1893, he declares: "The Hawaiian pear is now fully ripe and this is the golden hour for the United States to pluck it."

As a further illustration of the activity of this diplomatic representative, attention is called to the fact that on the day the above letter was written, apparently unable longer to restrain his ardor, he issued a proclamation whereby "in the name of the United States" he assumed the protection of the Hawaiian Islands and declared that said action was "taken pending and subject to negotiations at Washington." Of course this assumption of a protectorate was promptly disavowed by our Government, but the American flag remained over the Government building at Honolulu and the forces remained on guard until April, and after Mr. Blount's arrival on the scene, when both were removed.

A brief statement of the occurrences that led to the subversion of the constitutional Government of Hawaii in the interests of annexation to the United States will exhibit the true complexion of that transaction.

On Saturday, January 14, 1893, the Queen of Hawaii, who had been contemplating the proclamation of a new constitution, had, in deference to the wishes and remonstrances of her cabinet, renounced the project for the present at least. Taking this relinquished purpose as a basis of action, citizens of Honolulu numbering from fifty to one hundred, mostly resident aliens, met in a private office and selected a so-called Committee of Safety, composed of thirteen persons, seven of whom were foreign subjects, and consisted of five Americans, one Englishman, and one German. This committee, though its designs were not revealed, had in view nothing less than annexation to the United States, and between Saturday, the 14th, and the following Monday, the 16th of January—though exactly what action was taken may not be clearly disclosed—they were certainly in communication with the United States Minister. On Monday morning the Queen and her cabinet made public proclamation, with a notice which was specially served upon the representatives of all foreign governments, that any changes in the constitution would be sought only in the methods provided by that instrument. Nevertheless, at the call and under the auspices of the Committee of Safety, a mass meeting of citizens was held on that day to protest against the Queen's alleged illegal and unlawful proceedings and purposes. Even at this meeting the Committee of Safety continued to disguise their real purpose and contented themselves with procuring the passage of a resolution denounc-

ing the Queen and empowering the committee to devise ways and means "to secure the permanent maintenance of law and order and the protection of life, liberty, and property in Hawaii." This meeting adjourned between three and four o'clock in the afternoon. On the same day, and immediately after such adjournment, the committee, unwilling to take further steps without the cooperation of the United States Minister, addressed him a note representing that the public safety was menaced and that lives and property were in danger, and concluded as follows:

"We are unable to protect ourselves without aid, and therefore pray for the protection of the United States forces." Whatever may be thought of the other contents of this note, the absolute truth of this latter statement is incontestable. When the note was written and delivered, the committee, so far as it appears, had neither a man nor a gun at their command, and after its delivery they became so panic-stricken at their position that they sent some of their number to interview the Minister and request him not to land the United States forces till the next morning. But he replied that the troops had been ordered, and whether the committee were ready or not the landing should take place. And so it happened that on the 16th day of January, 1893, between four and five o'clock in the afternoon, a detachment of marines from the United States steamer *Boston*, with two pieces of artillery, landed at Honolulu. The men, upwards of 160 in all, were supplied with double cartridge belts filled with ammunition and with haversacks and canteens, and were accompanied by a hospital corps with stretchers and medical supplies. This military demonstration upon the soil of Honolulu was of itself an act of war, unless made either with the consent of the Government of Hawaii or for the *bona fide* purpose of protecting the imperilled lives and property of citizens of the United States. But there is no pretense of any such consent on the part of the Government of the Queen, which at that time was undisputed and was both the *de facto* and the *de jure* government. In point of fact the existing government instead of requesting the presence of an armed force protested against it. There is as little basis for the pretense that such forces were landed for the security of American life and property. If so, they would have been stationed in the vicinity of such property and so as to protect it, instead of at a distance and so as to command the Hawaiian Government building and palace. Admiral Skerrett, the officer in command of our naval force on the Pacific station, has frankly stated that in his opinion the location of the troops was inadvisable if they were landed for the protection of American citizens whose residences and places of business, as well as the legation and consulate, were in a distant part of the city, but the location selected was a wise one if the forces were landed for the purpose of supporting the provisional government. If any peril to life and property calling for any such martial array had existed, Great Britain and other foreign powers interested would not have been behind the United States in activity to protect their citizens. But they made no sign in that direction. When these armed men were landed, the city of Honolulu was in its customary orderly and peaceful condition. There was no symptom of riot or disturbance in any quarter. Men, women, and children were about the streets as usual, and nothing varied the ordinary routine or disturbed the ordinary tranquillity, except the landing of the *Boston's* marines and their march through the town to the quarters assigned them. Indeed, the fact that after having called for the landing of the United States forces on the plea of danger to life and property the Committee of Safety themselves requested the Minister to postpone action, exposed the untruthfulness of their representations of present peril to life and property. The peril they saw was an anticipation growing out of guilty intentions on their part and something which, though not then existing, they knew would certainly follow their attempt to overthrow the Government of the Queen without the aid of the United States forces.

Thus it appears that Hawaii was taken possession of by the United States forces without the consent or wish of the government of the islands, or of anybody else so far as shown, except the United States Minister.

Therefore the military occupation of Honolulu by the United States on the day mentioned was wholly without justification, either as an occupation by consent or as an occupation necessitated by dangers threatening American life and property. It must be accounted for in some other way and on some other ground, and its real motive and purpose are neither obscure nor far to seek.

The United States forces being now on the scene and favorably stationed, the committee proceeded to carry out their original scheme. They met the next morning, Tuesday, the 17th, perfected the plan of temporary government, and fixed upon its principal officers, ten of whom were drawn from the thirteen members of the Committee of Safety. Between one and two o'clock, by squads and by different routes to avoid notice, and having first taken the precaution of ascertaining whether there was any one there to oppose them, they proceeded to the Government building to proclaim the new government. No sign of opposition was manifest, and thereupon an American citizen began to read the proclamation from the steps of the Government building almost entirely without auditors. It is said that before the reading was finished quite a concourse of persons, variously estimated at from 50 to 100, some armed and some unarmed, gathered about the committee to give them aid and confidence. This statement is not important, since the one controlling factor in the whole affair was unquestionably the United States marines, who, drawn up under arms and with artillery in readiness only seventy-six yards distant, dominated the situation.

The provisional government thus proclaimed was by the terms of the proclamation "to exist until terms of union with the United States been negotiated and agreed upon". The United States Minister, pursuant to prior agreement, recognized this government within an hour after the reading of the proclamation, and before five o'clock, in answer to an inquiry on behalf of the Queen and her cabinet, announced that he had done so.

When our Minister recognized the provisional government the only basis upon which it rested was the fact that the Committee of Safety had in the manner above stated declared it to exist. It was neither a government *de facto* nor *de jure*. That it was not in such possession of the Government property and agencies as entitled it to recognition is conclusively proved by a note found in the files of the Legation at Honolulu, addressed by the declared head of the provisional government of Minister Stevens, dated January 17, 1893, in which he acknowledges with expressions of appreciation the Minister's recognition of the provisional government, and states that it is not yet in the possession of the station house (the place where a large number of the Queen's troops were quartered), though the same has been demanded of the Queen's officer in charge. Nevertheless, this wrongful recognition by our Minister placed the Government of the Queen in a position of most perilous perplexity. On the one hand she had possession of the palace, of the barracks, and of the police station, and had at her command at least five hundred fully armed men and several pieces of artillery. Indeed, the whole military force of her kingdom was on her side and at her disposal, while the Committee of Safety, by actual search, had discovered that there were but very few arms in Honolulu that were not in the service of the Government. In this state of things if the Queen could have dealt with the insurgents alone her course would have been plain and the result unmistakable. But the United States had allied itself with her enemies, had recognized them as the true Government of Hawaii, and had put her and her adherents in the position of opposition against lawful authority. She knew that she could not withstand the power of the United States, but she believed that she might safely trust to its justice. Accordingly, some hours after the recognition of the provisional government by the United States Minister, the palace, the barracks, and the police station, with all the military resources of the country, were delivered up by the Queen upon the representation made to her that her cause would thereafter be reviewed at Washington, and while protesting that she surrendered to the superior force of the United States, whose Minister had caused United States troops to be landed at Honolulu and declared that he would support the provisional government, and that she yielded her authority to prevent collision of armed forces and loss of life and only until such time as the United States, upon the facts being presented to it, should undo the action of its representative and reinstate her in the authority she claimed as the constitutional sovereign of the Hawaiian Islands.

This protest was delivered to the chief of the provisional government, who endorsed thereon his acknowledgement of its receipt. The terms of the protest were read without dissent by those assuming to constitute the provisional government, who were certainly charged with the knowledge that the Queen instead of finally abandoning her power had appealed to the justice of the United States for reinstatement in her authority; and yet the provisional government with this unanswered protest in its hand hastened to negotiate with the United States for the permanent banishment of the Queen from power and for a sale of her kingdom.

Our country was in danger of occupying the position of having actually set up a temporary government on foreign soil for the purpose of acquiring through that agency territory which we had wrongfully put in its possession. The control of both sides of a bargain acquired in such a manner is called by a familiar and unpleasant name when found in private transactions. We are not without a precedent showing how scrupulously we avoided such accusations in former days. After the people of Texas had declared their independence of Mexico they resolved that on the acknowledgement of their independence by the United States they would seek admission into the Union. Several months after the battle of San Jacinto, by which Texan independence was practically assured and established, President Jackson declined to recognize it, alleging as one of his reasons that in the cir-

cumstances it became us "to beware of a too early movement, as it might subject us, however unjustly, to the imputation of seeking to establish the claim of our neighbors to a territory with a view to its subsequent acquisition by ourselves". This is in marked contrast with the hasty recognition of a government openly and concededly set up for the purpose of tendering to us territorial annexation.

I believe that a candid and thorough examination of the facts will force the conviction that the provisional government owes its existence to an armed invasion by the United States. Fair-minded people with the evidence before them will hardly claim that the Hawaiian Government was overthrown by the people of the islands or that the provisional government had ever existed with their consent. I do not understand that any member of this government claims that the people would uphold it by their suffrages if they were allowed to vote on the question.

While naturally sympathizing with every effort to establish a republican form of government, it has been the settled policy of the United States to concede to people of foreign countries the same freedom and independence in the management of their domestic affairs that we have always claimed for ourselves; and it has been our practice to recognize revolutionary governments as soon as it became apparent that they were supported by the people. For illustration of this rule I need only to refer to the revolution in Brazil in 1889, when our Minister was instructed to recognize the Republic "so soon as a majority of the people of Brazil should have signified their assent to its establishment and maintenance"; to the revolution in Chile in 1891, when our Minister was directed to recognize the new government "if it was accepted by the people"; and to the revolution in Venezuela in 1892, when our recognition was accorded on condition that the new government was "fully established, in possession of the power of the nation, and accepted by the people."

As I apprehend the situation, we are brought face to face with the following conditions:

The lawful Government of Hawaii was overthrown without the drawing of a sword or the firing of a shot by a process every step of which, it may safely be asserted, is directly traceable to and dependent for its success upon the agency of the United States acting through its diplomatic and naval representatives.

But for the notorious predilections of the United States Minister for annexation, the Committee of Safety, which should be called the Committee of Annexation, would never have existed.

But for the landing of the United States forces upon false pretexts respecting the danger to life and property the committee would never have exposed themselves to the pains and penalties of treason by undertaking the subversion of the Queen's Government.

But for the presence of the United States forces in the immediate vicinity and in position to afford all needed protection and support the committee would not have proclaimed the provisional government from the steps of the Government building.

And finally, but for the lawless occupation of Honolulu under false pretexts by the United States forces, and but for Minister Steven's recognition of the provisional government when the United States forces were its sole support and constituted its only military strength, the Queen and her Government would never have yielded to the provisional government, even for a time and for the sole purpose of submitting her case to the enlightened justice of the United States.

Believing, therefore, that the United States could not, under the circumstances disclosed, annex the islands without justly incurring the imputation of acquiring them by unjustifiable methods, I shall not again submit the treaty of annexation to the Senate for its consideration, and in the instructions to Minister Willis, a copy of which accompanies this message, I have directed him to so inform the provisional government.

But in the present instance our duty does not, in my opinion, end with refusing to consummate this questionable transaction. It has been the boast of our Government that it seeks to do justice in all things without regard to the strength or weakness of those with whom it deals. I mistake the American people if they favor the odious doctrine that there is no such thing as international morality, that there is one law for a strong nation and another for a weak one, and that even by indirection a strong power may with impunity despoil a weak one of its territory.

By an act of war, committed with the participation of a diplomatic representative of the United States and without authority of Congress, the Government of a feeble but friendly and confiding people has been overthrown. A substantial wrong has thus been done which a due regard for our national character as well as the rights of the injured people requires we should endeavor to repair. The provisional government has not assumed a republican or other constitutional form, but has remained a mere executive council or oligarchy, set up without the assent of the people. It has not sought to find a permanent basis of popular support and has given no evidence of an intention to do so. Indeed, the representatives of that government assert that the people of Hawaii are unfit for popular government and frankly avow that they can be best ruled by arbitrary or despotic power.

The law of nations is founded upon reason and justice, and the rules of conduct governing individual relations between citizens or subjects of civilized state are equally applicable as between enlighted nations. The considerations that international law is without a court for its enforcement, and that obedience to its commands practically depends upon good faith, instead of upon the mandate of a superior tribunal, only give additional sanction to the law itself and brand any deliberate infraction of its not merely as a wrong but as a disgrace. A man of true honor protects the unwritten word which binds his conscience more scrupulously, if possible, than he does the bond a breach of which subjects him to legal liabilities; and the United States in aiming to maintain itself as one of the most enlightened of nations would do its citizens gross injustice if it applied to its international relations any other than a high standard of honor and morality. On that ground the United States can not properly be put in the position of countenancing a wrong after its commission any more than in that of consenting to it in advance. On that ground it can not allow itself to refuse to redress an injury inflicted through an abuse of power by officers clothed with its authority and wearing its uniform; and on the same ground, if a feeble but friendly state is in danger of being robbed of its independence and its sovereignty by a misuse of the name and power of the United States, the United States can not fail to vindicate its honor and its sense of justice by an earnest effort to make all possible reparation.

These principles apply to the present case with irresistible force when the special conditions of the Queen's surrender of her sovereignty are recalled. She surrendered not to the provisional government, but to the United States. She surrendered not absolutely and permanently, but temporarily and conditionally until such time as the facts could be considered by the United States. Furthermore, the provisional government acquiesced in her surrender in that manner and on those terms, not only by tacit consent, but through the positive acts of some members of that government who urged her peaceable submission, not merely to avoid bloodshed, but because she could place implicit reliance upon the justice of the United States, and that the whole subject would be finally considered at Washington.

I have not, however, overlooked an incident of this unfortunate affair which remains to be mentioned. The members of the provisional government and their supporters, though not entitled to extreme sympathy, have been led to their present predicament of revolt against the Government of the Queen by the indefensible encouragement and assistance of our diplomatic representative. This fact may entitle them to claim that in our effort to rectify the wrong committed some regard should be had for their safety. This sentiment is strongly seconded by my anxiety to do nothing which would invite either harsh retaliation on the part of the Queen or violence, and bloodshed in any quarter. In the belief that the Queen, as well as her enemies, would be willing to adopt such a course as would meet these conditions, and in view of the fact that both the Queen and the provisional government had at one time apparently acquiesced in a reference of the entire case to the United States Government, and considering the further fact that in any event the provisional government by its own declared limitation was only "to exist until terms of union with the United States of America have been negotiated and agreed upon," I hope that after the assurance to the members of that government that such union could not be consummated I might compass a peaceful adjustment of the difficulty.

Actuated by these desires and purposes, and not unmindful of the inherent perplexities of the situation nor of the limitations upon my power, I instructed Minister Willis to advise the Queen and her supporters of my desire to aid in the restoration of the status existing before the lawless landing of the United States forces at Honolulu on the 16th of January last, if such restoration could be effected upon terms providing for clemency as well as justice to all parties concerned. The conditions suggested, as the instructions show, contemplate a general amnesty to those concerned in setting up the provisional government and a recognition of all its *bona fide* acts and obligations. In short, they require that the past should be buried, and that the restored Government should reassume its authority as if its continuity had not been interrupted. These conditions have not proved acceptable to the Queen, and though she has been informed that they will be insisted upon, and that, unless acceded to, the efforts of the President to aid in the restoration of her Government will cease, I have not thus far learned that she is willing to yield them her acquiescence. The check which my plans have thus encountered has prevented their presentation to the members of the provisional government, while unfortunate public misrepresentations of the situation and exagger-

ated statements of the sentiments of our people have obviously injured the prospects of successful Executive mediation.

I therefore submit this communication with its accompanying exhibits, embracing Mr. Blount's report, the evidence and statements taken by him at Honolulu, the instructions given to both Mr. Blount and Minister Willis, and correspondence connected with the affair in hand.

In commending this subject to the extended powers and wide discretion of the Congress, I desire to add the assurance that I shall be much gratified to cooperate in any legislative plan which may be devised for the solution of the problem before us which is consistent with American honor, integrity, and morality.

GROVER CLEVELAND.

EXECUTIVE MANSION,
Washington, December 18, 1893.

ADDITIONAL COSPONSORS

S. 514

At the request of Ms. MIKULSKI, the name of the Senator from Oklahoma [Mr. BOREN] was added as a cosponsor of S. 514, a bill to amend the Public Health Service Act, the Social Security Act, and other Acts to promote greater equity in the delivery of health care services to women through expanded research on women's issues, improved access to health care services, and the development of disease prevention activities responsive to the needs of women, and for other purposes.

S. 567

At the request of Mr. SANFORD, the name of the Senator from Arkansas [Mr. BUMPERS] was added as a cosponsor of S. 567, a bill to amend title II of the Social Security Act to provide for a gradual period of transition (under a new alternative formula with respect to such transition) to the changes in benefit computation rules enacted in the Social Security Amendments of 1977 as such changes apply to workers born in years after 1916 and before 1927 (and related beneficiaries) and to provide for increases in such workers' benefits accordingly, and for other purposes.

S. 810

At the request of Mr. HARKIN, the names of the Senator from Connecticut [Mr. LIEBERMAN] and the Senator from Montana [Mr. BURNS] were added as cosponsors of S. 810, a bill to improve counseling services for elementary schoolchildren.

S. 1318

At the request of Mr. HATFIELD, the name of the Senator from Michigan [Mr. RIEGLE] was added as a cosponsor of S. 1318, a bill to amend the Solid Waste Disposal Act so as to protect the environment from discarded beverage containers; to reduce solid waste and the cost in connection with the disposal of such waste through recycling; and for other purposes.

S. 1622

At the request of Mr. KENNEDY, the name of the Senator from Hawaii [Mr. INOUYE] was added as a cosponsor of S. 1622, a bill to amend the Occupational Safety and Health Act of 1970 to improve the provisions of such Act with respect to the health and safety of employees, and for other purposes.

S. 1777

At the request of Mr. ADAMS, the names of the Senator from California [Mr. CRANSTON], the Senator from Massachusetts [Mr. KENNEDY], the Senator from Rhode Island [Mr. PELL], the Senator from Ohio [Mr. METZENBAUM], and the Senator from Iowa [Mr. HARKIN] were added as cosponsors of S. 1777, a bill to amend the Public Health Service Act to establish the authority for the regulation of mammography services and radiological equipment, and for other purposes.

S. 1866

At the request of Mr. KENNEDY, the name of the Senator from Kansas [Mrs. KASSEBAUM] was added as a cosponsor of S. 1866, a bill to promote community based economic development and to provide assistance for community development corporations, and for other purposes.

S. 1966

At the request of Mr. BIDEN, the name of the Senator from North Dakota [Mr. CONRAD] was added as a cosponsor of S. 1966, a bill to establish a national background check procedure to ensure that persons working as child care providers do not have a criminal history of child abuse, to initiate the reporting of all State and Federal child abuse crimes, to establish minimum guidelines for States to follow in conducting background checks and provide protection from inaccurate information for persons subjected to background checks, and for other purposes.

S. 1996

At the request of Mr. ROCKEFELLER, the name of the Senator from Arkansas [Mr. BUMPERS] was added as a cosponsor of S. 1996, a bill to amend title XVIII of the Social Security Act to provide for uniform coverage of anticancer drugs under the medicare program, and for other purposes.

S. 2296

At the request of Mr. AKAKA, the names of the Senator from California [Mr. CRANSTON] and the Senator from Rhode Island [Mr. PELL] were added as cosponsors of S. 2296, a bill to amend the Packers and Stockyards Act, 1921, to make it unlawful for any stockyard owner, market agency, or dealer to transfer or market nonambulatory livestock, and for other purposes.

S. 2387

At the request of Mr. BAUCUS, his name 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. 2484

At the request of Mr. KASTEN, the name of the Senator from Indiana [Mr. COATS] was added as a cosponsor of S. 2484, a bill to establish research, development, and dissemination programs to assist State and local agencies in preventing crime against the elderly, and for other purposes.

S. 2608

At the request of Mr. EXON, the name of the Senator from New Jersey [Mr. LAUTENBERG] was added as a cosponsor of S. 2608, a bill to authorize appropriations for the National Railroad Passenger Corporation, and for other purposes.

S. 2792

At the request of Mr. KOHL, the name of the Senator from Illinois [Mr. SIMON] was added as a cosponsor of S. 2792, a bill to amend and authorize appropriations for the continued implementation of the Juvenile Justice and Delinquency Prevention Act of 1974.

S. 2810

At the request of Mr. NICKLES, his name was added as a cosponsor of S. 2810, a bill to recognize the unique status of local exchange carriers in providing the public switched network infrastructure and to ensure the broad availability of advanced public switched network infrastructure.

S. 2837

At the request of Mr. D'AMATO, his name was added as a cosponsor of S. 2837, a bill to amend the Public Health Service Act to provide for a program to carry out research on the drug known as diethylstilbestrol, to educate health professionals and the public on the drug, and to provide for certain longitudinal studies regarding individuals who have been exposed to the drug.

S. 2895

At the request of Mr. ADAMS, the names of the Senator from Hawaii [Mr. INOUYE], the Senator from Rhode Island [Mr. PELL], and the Senator from Hawaii [Mr. AKAKA] were added as cosponsors of S. 2895, a bill to provide a program for rural development for communities and businesses in the Pacific Northwest and northern California, to provide retraining assistance for workers in the Pacific Northwest and northern California who have been dislocated from the timber harvesting, log hauling and transportation, saw mill, and wood products industries, to provide cost share and forest management assistance to private landowners in the Pacific Northwest and northern California in order to ensure the long-term supply of Pacific yew for medicinal purposes, to preserve Federal watersheds and late-successional and old-growth forests in the Pacific Northwest and northern California, to provide oversight of national forest ecosystem management throughout the United States, to provide for research on national forest ecosystem management, and for other purposes.

S. 2900

At the request of Mr. DOMENICI, the names of the Senator from Alaska [Mr. STEVENS], and the Senator from Missouri [Mr. BOND] were added as cosponsors of S. 2900, a bill to establish a moratorium on the promulgation and implementation of certain drinking water regulations promulgated under title XIV of the Public Health Service Act—commonly known as the Safe Drinking Water Act—until certain studies and the reauthorization of the Act are carried out, and for other purposes.

S. 2914

At the request of Mr. DURENBERGER, the name of the Senator from Michigan [Mr. RIEGLE] was added as a cosponsor of S. 2914, a bill to direct the Secretary of Health and Human Services to make separate payment for interpretations of electrocardiograms.

S. 2918

At the request of Mr. GRAHAM, the name of the Senator from Maine [Mr. COHEN] was added as a cosponsor of S. 2918, a bill to promote a peaceful transition to democracy in Cuba through the application of appropriate pressures on the Cuban Government and support for the Cuban people.

S. 2922

At the request of Mr. COHEN, the names of the Senator from Maine [Mr. MITCHELL], the Senator from Kansas [Mr. DOLE], the Senator from Arkansas [Mr. PRYOR], the Senator from New Jersey [Mr. BRADLEY], the Senator from Iowa [Mr. HARKIN], and the Senator from California [Mr. CRANSTON] were added as cosponsors of S. 2922, a bill to assist the States in the enactment of legislation to address the criminal act of stalking other persons.

S. 2941

At the request of Mr. RUDMAN, the name of the Senator from Tennessee [Mr. SASSER] was added as a cosponsor of S. 2941, a bill to provide the Administrator of the Small Business Administration continued authority to administer the Small Business Innovation Research Program, and for other purposes.

S. 2945

At the request of Mr. FORD, the name of the Senator from Hawaii [Mr. INOUYE] was added as a cosponsor of S. 2945, a bill to amend the Federal Aviation Act of 1958 to establish and operate a system in the United States to supplement the compensation payable to claimants under the Convention for the Unification of Certain Rules Relating to International Carriage by Air in respect of death or personal injury of passengers.

S. 2970

At the request of Mr. KASTEN, his name was added as a cosponsor of S. 2970, a bill to amend the Cash Management Improvement Act of 1990, and for other purposes.

S. 2982

At the request of Mr. BUMPERS, the name of the Senator from Ohio [Mr. GLENN] was added as a cosponsor of S. 2982, a bill to amend the Consolidated Farm and Rural Development Act to establish a program to aid beginning farmers and ranchers and to improve the operation of the Farmers Home Administration, and to amend the Farm Credit Act of 1971 for other purposes.

S. 3008

At the request of Mr. ADAMS, the name of the Senator from Ohio [Mr. GLENN] was added as a cosponsor of S. 3008, a bill to amend the Older Americans Act of 1965 to authorize appropriations for fiscal years 1992 through 1995; to authorize a White House Conference on Aging; to amend the Native Americans Programs Act of 1974 to authorize appropriations for fiscal years 1992 through 1995; and for other purposes.

S. 3098

At the request of Mr. LEAHY, the names of the Senator from Pennsylvania [Mr. WOFFORD], the Senator from Washington [Mr. ADAMS], the Senator from Iowa [Mr. HARKIN], the Senator from New York [Mr. MOYNIHAN], the Senator from Connecticut [Mr. DODD], the Senator from California [Mr. CRANSTON], the Senator from Wisconsin [Mr. KOHL], the Senator from Nevada [Mr. BRYAN], the Senator from Michigan [Mr. RIEGLE], the Senator from North Carolina [Mr. SANFORD], the Senator from Kentucky [Mr. FORD], the Senator from West Virginia [Mr. ROCKEFELLER], the Senator from Hawaii [Mr. AKAKA], the Senator from Hawaii [Mr. INOUYE], the Senator from Pennsylvania [Mr. SPECTER], the Senator from New York [Mr. D'AMATO], the Senator from Nevada [Mr. REID], the Senator from Maine [Mr. MITCHELL], the Senator from Illinois [Mr. SIMON], the Senator from South Dakota [Mr. DASCHLE], the Senator from Maryland [Mr. SARBANES], the Senator from Ohio [Mr. METZENBAUM], the Senator from Rhode Island [Mr. PELL], the Senator from North Dakota [Mr. CONRAD], the Senator from New Jersey [Mr. LAUTENBERG], the Senator from Virginia [Mr. ROBB], and the Senator from Arkansas [Mr. BUMPERS] were added as cosponsors of S. 3098, a bill to impose a one-year moratorium on the sale, transfer or export of anti-personnel landmines abroad, and for other purposes.

SENATE JOINT RESOLUTION 242

At the request of Mr. SPECTER, the names of the Senator from Oklahoma [Mr. BOREN] and the Senator from Idaho [Mr. SYMMS] were added as cosponsors of Senate Joint Resolution 242, a joint resolution to designate the week of September 13, 1992, through September 19, 1992, as "National Rehabilitation Week."

SENATE JOINT RESOLUTION 311

At the request of Mr. SEYMOUR, the name of the Senator from New Jersey [Mr. LAUTENBERG] was added as a cosponsor of Senate Joint Resolution 311, a joint resolution designating February 21, 1993, through February 27, 1993, as "American Wine Appreciation Week", and for other purposes.

SENATE JOINT RESOLUTION 313

At the request of Mr. HEFLIN, the name of the Senator from Alaska [Mr. STEVENS] was added as a cosponsor of Senate Joint Resolution 313, a joint resolution to designate the period beginning February 1, 1993, and ending February 5, 1993, as "National Shoplifting Prevention Week."

SENATE JOINT RESOLUTION 330

At the request of Mr. KENNEDY, the names of the Senator from Indiana [Mr. COATS], the Senator from Rhode Island [Mr. CHAFEE], the Senator from North Dakota [Mr. BURDICK], the Senator from Connecticut [Mr. LIEBERMAN], and the Senator from New Jersey [Mr. LAUTENBERG] were added as cosponsors of Senate Joint Resolution 330, a joint resolution to designate March 1993 as "Irish-American Heritage Month."

SENATE JOINT RESOLUTION 332

At the request of Mr. SASSER, the names of the Senator from Vermont [Mr. JEFFORDS] and the Senator from South Carolina [Mr. THURMOND] were added as cosponsors of Senate Joint Resolution 332, a joint resolution to establish the month of October, 1992 as "Country Music Month."

SENATE CONCURRENT RESOLUTION 133

At the request of Mr. AKAKA, the names of the Senator from Maine [Mr. COHEN] and the Senator from Pennsylvania [Mr. SPECTER] were added as cosponsors of Senate Concurrent Resolution 133, a concurrent resolution concerning Israel's recent elections and the upcoming visit by Israeli Prime Minister Yitzhak Rabin to the United States.

SENATE RESOLUTION 301

At the request of Mr. SIMON, the names of the Senator from New Jersey [Mr. BRADLEY], the Senator from Wisconsin [Mr. KOHL], and the Senator from Iowa [Mr. HARKIN] were added as cosponsors of Senate Resolution 301, a resolution relating to ongoing violence connected with apartheid in South Africa.

SENATE RESOLUTION 325

At the request of Mr. D'AMATO, the names of the Senator from Colorado [Mr. WIRTH] and the Senator from Tennessee [Mr. GORE] were added as cosponsors of Senate Resolution 325, a resolution expressing the sense of the Senate that the Government of the Yemen Arab Republic should lift its restrictions on Yemeni-Jews and allow them unlimited and complete emigration and travel.

AMENDMENT NO. 2934

At the request of Mr. PACKWOOD the names of the Senator from Oklahoma [Mr. NICKLES], the Senator from Texas

[Mr. BENTSEN], the Senator from Florida [Mr. GRAHAM], the Senator from Connecticut [Mr. LIEBERMAN], the Senator from South Carolina [Mr. HOLLINGS], the Senator from Pennsylvania [Mr. WOFFORD], the Senator from California [Mr. SEYMOUR], the Senator from Connecticut [Mr. DODD], the Senator from Wisconsin [Mr. KASTEN], the Senator from New Mexico [Mr. DOMENICI] and the Senator from Kansas [Mr. DOLE] were added as cosponsors of Amendment No. 2934 proposed to H.R. 11, a bill to amend the Internal Revenue Code of 1986 to provide tax incentives for the establishment of tax enterprise zones, and for other purposes.

SENATE RESOLUTION 335—RELATING TO AUTHORIZATION OR DOCUMENTARY PRODUCTION

Mr. MITCHELL (for himself and Mr. DOLE) submitted the following resolution; which was considered and agreed to:

S. CON. RES. 335

Whereas, in the case of *United States of America* v. *Caspar W. Weinberger*, Crim. No. 92-0235-TFH, pending in the United States District Court for the District of Columbia, counsel for the defendant has requested the production of documents from the Select Committee on Intelligence;

Whereas, by the privileges of the Senate of the United States and Rule XI of the Standing Rules of the Senate, no evidence under the control or in the possession of the Senate can, by administrative or judicial process, be taken from such control or possession but by permission of the Senate;

Whereas, when it appears that evidence under the control or in the possession of the Senate is needed for the promotion of justice, the Senate will take such action as will promote the ends of justice consistent with the privileges of the Senate: Now, therefore, be it

Resolved, That the chairman and vice chairman of the Select Committee on Intelligence, acting jointly, are authorized to produce documents in the case of *United States of America* v. *Caspar W. Weinberger*, except concerning matters for which a privilege should be asserted.

SENATE RESOLUTION 336—RELATING TO THE RELIEF OF HORACE MARTIN

Mr. THURMOND submitted the following resolution; which was referred to the Committee on the Judiciary:

S. RES. 336

Resolved, That the bill (S. 3198) entitled "A bill for the relief of Horace Martin," now pending in the Senate, together with all accompanying papers, is referred to the Chief Judge of the United States Claims Court. The Chief Judge shall proceed with the same in accordance with the provisions of sections 1492 and 2509 of title 28, United States Code, and report back to the Senate, at the earliest practicable date, giving such finding of fact and conclusions that are sufficient to inform Congress of the amount, if any, legally or equitably due from the United States to the claimant

AMENDMENTS SUBMITTED

TAX ENTERPRISE ZONES ACT

MACK AMENDMENT NO. 2936

Mr. MACK proposed an amendment to the bill (H.R. 11) to amend the Internal Revenue Code of 1986 to provide tax incentives for the establishment of tax enterprise zones, and for other purposes; as follows:

At the appropriate place add the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Economic Growth and Venture Capital Act of 1992".

SEC. 2. REDUCTION IN INDIVIDUAL CAPITAL GAINS RATE.

(a) GENERAL RULE.—Subsection (h) of section 1 of the Internal Revenue Code of 1986 (relating to maximum capital gains rate) is amended to read as follows:

"(h) MAXIMUM CAPITAL GAINS RATE.—

"(1) IN GENERAL.—If a taxpayer has a net capital gain for any taxable year, then the tax imposed by this section shall not exceed the sum of—

"(A) a tax computed at the rates and in the same manner as if this subsection had not been enacted on the taxable income reduced by the net capital gain, plus

"(B) a tax equal to the sum of—

"(i) 7.5 percent of so much of the net capital gain as does not exceed—

"(I) the maximum amount of taxable income to which the 15-percent rate applies under the table applicable to the taxpayer, reduced by

"(II) the taxable income to which subparagraph (A) applies, plus

"(ii) 15 percent of the net capital gain in excess of the net capital gain to which clause (i) applies.

"(2) TRANSITIONAL RULE.—In the case of a taxable year which includes August 11, 1992, the amount of the net capital gain for purposes of paragraph (1) shall not exceed the net capital gain determined by only taking into account gains and losses properly taken into account for the portion of the taxable year after such date."

(b) TECHNICAL AMENDMENTS.—

(1) Paragraph (1) of section 170(e) of such Code is amended by striking "the amount of gain" in the material following subparagraph (B)(ii) and inserting "13/28 (19/34 in the case of a corporation) of the amount of gain".

(2)(A) The second sentence of section 7518(g)(6)(A) of such Code is amended by striking "28 percent (34 percent in the case of a corporation)" and inserting "15 percent".

(B) The second sentence of section 607(h)(6)(A) of the Merchant Marine Act, 1936, is amended by striking "28 percent (34 percent in the case of a corporation)" and inserting "15 percent".

SEC. 3. REDUCTION IN CORPORATE CAPITAL GAINS RATE.

(a) GENERAL RULE.—Section 1201 of the Internal Revenue Code of 1986 (relating to alternative tax for corporations) is amended by redesignating subsection (b) as subsection (c), and by striking subsection (a) and inserting the following:

"(a) GENERAL RULE.—If for any taxable year a corporation has a net capital gain, then, in lieu of the tax imposed by section 11, 511, or 831(a) (whichever applies), there is hereby imposed a tax (if such tax is less than the tax imposed by such section) which shall consist of the sum of—

"(1) a tax computed on the taxable income reduced by the net capital gain, at the same rates and in the same manner as if this subsection had not been enacted, plus

"(2) a tax of 15 percent of the net capital gain.

"(b) TRANSITIONAL RULE.—In the case of a taxable year which includes August 11, 1992, the amount of the net capital gain for purposes of subsection (a) shall not exceed the net capital gain determined by only taking into account gains and losses properly taken into account for the portion of the taxable year after such date."

(b) TECHNICAL AMENDMENTS.—

(1) Clause (iii) of section 852(b)(3)(D) of such Code is amended by striking "66 percent" and inserting "85 percent".

(2) Paragraphs (1) and (2) of section 1445(e) of such Code are each amended by striking "34 percent" and inserting "15 percent".

SEC. 4. REDUCTION OF MINIMUM TAX RATE ON CAPITAL GAINS.

Subparagraph (A) of section 55(b)(1) of the Internal Revenue Code of 1986 (relating to tentative minimum tax) is amended to read as follows:

"(A) the sum of—

"(i) 15 percent of the lesser of—

"(I) the net capital gain (determined with the adjustments provided in this part and (to the extent applicable) the limitations of sections 1(h)(2) and 1201(b)), or

"(II) so much of the alternative minimum taxable income for the taxable year as exceeds the exemption amount, plus

"(ii) 20 percent (24 percent in the case of a taxpayer other than a corporation) of the amount (if any) by which the excess referred to in clause (i)(II) exceeds the net capital gain (as so determined), reduced by".

SEC. 5. INDEXING OF CERTAIN ASSETS FOR PURPOSES OF DETERMINING GAIN OR LOSS.

(a) IN GENERAL.—Part II of subchapter O of chapter 1 of the Internal Revenue Code of 1986 (relating to basis rules of general application) is amended by inserting after section 1021 the following new section:

"SEC. 1022. INDEXING OF CERTAIN ASSETS FOR PURPOSES OF DETERMINING GAIN OR LOSS.

"(a) GENERAL RULE.—

"(1) INDEXED BASIS SUBSTITUTED FOR ADJUSTED BASIS.—Except as provided in paragraph (2), if an indexed asset which has been held for more than 1 year is sold or otherwise disposed of, for purposes of this title the indexed basis of the asset shall be substituted for its adjusted basis.

"(2) EXCEPTION FOR DEPRECIATION, ETC.—The deduction for depreciation, depletion, and amortization shall be determined without regard to the application of paragraph (1) to the taxpayer or any other person.

"(b) INDEXED ASSET.—

"(1) IN GENERAL.—For purposes of this section, the term 'indexed asset' means—

"(A) stock in a corporation, and

"(B) tangible property (or any interest therein), which is a capital asset of property used in the trade or business (as defined in section 1231(b)).

"(2) CERTAIN PROPERTY EXCLUDED.—For purposes of this section, the term 'indexed asset' does not include—

"(A) CREDITOR'S INTEREST.—Any interest in property which is in the nature of a creditor's interest.

"(B) OPTIONS.—Any option or other right to acquire an interest in property.

"(C) NET LEASE PROPERTY.—In the case of a lessor, net lease property (within the meaning of subsection (h)(1)).

"(D) CERTAIN PREFERRED STOCK.—Stock which is fixed and preferred as to dividends and does not participate in corporate growth to any significant extent.

"(E) STOCK IN CERTAIN CORPORATIONS.—Stock in—

"(i) an S corporation (within the meaning of section 1361),

"(ii) a personal holding company (as defined in section 542), and

"(iii) a foreign corporation.

"(3) EXCEPTION FOR STOCK IN FOREIGN CORPORATION WHICH IS REGULARLY TRADED ON NATIONAL OR REGIONAL EXCHANGE.—Clause (iii) of paragraph (2)(E) shall not apply to stock in a foreign corporation the stock of which is listed on the New York Stock Exchange, the American Stock Exchange, or any domestic regional exchange for which quotations are published on a regular basis other than—

"(A) stock of a foreign investment company (within the meaning of section 1246(b)), and

"(B) stock in a foreign corporation held by a United States person who meets the requirements of section 1248(a)(2).

"(c) INDEXED BASIS.—For purposes of this section—

"(1) INDEXED BASIS.—The indexed basis for any asset is—

"(A) the adjusted basis of the asset, multiplied by

"(B) the applicable inflation ratio.

"(2) APPLICABLE INFLATION RATIO.—The applicable inflation ratio for any asset is the percentage arrived at by dividing—

"(A) the gross national product deflator for the calendar quarter in which the disposition takes place, by

"(B) the gross national product deflator for the calendar quarter in which the asset was acquired by the taxpayer (or, if later, the calendar quarter ending December 31, 1991).

The applicable inflation ratio shall not be taken into account unless it is greater than 1. The applicable inflation ratio for any asset shall be rounded to the nearest one-tenth of 1 percent.

"(3) GROSS NATIONAL PRODUCT DEFLATOR.—The gross national product deflator for any calendar quarter is the implicit price deflator for the gross national product for such quarter (as shown in the first revision thereof).

"(4) SECRETARY TO PUBLISH TABLES.—The Secretary shall publish tables specifying the applicable inflation ratios for each calendar quarter.

"(d) SPECIAL RULES.—For purposes of this section—

"(1) TREATMENT AS SEPARATE ASSET.—In the case of any asset, the following shall be treated as a separate asset:

"(A) a substantial improvement to property,

"(B) in the case of stock of a corporation, a substantial contribution to capital, and

"(C) any other portion of an asset to the extent that separate treatment of such portion is appropriate to carry out the purposes of this section.

"(2) ASSETS WHICH ARE NOT INDEXED ASSETS THROUGHOUT HOLDING PERIOD.—

"(A) IN GENERAL.—The applicable inflation ratio shall be appropriately reduced for calendar months at any time during which the asset was not an indexed asset.

"(B) CERTAIN SHORT SALES.—For purposes of applying subparagraph (A), an asset shall be treated as not an indexed asset for any short sale period during which the taxpayer or the taxpayer's spouse sells short property substantially identical to the asset. For purposes of the preceding sentence, the short sale period begins on the day after the substantially identical property is sold and ends on the closing date for the sale.

"(3) TREATMENT OF CERTAIN DISTRIBUTIONS.—A distribution with respect to stock in a corporation which is not a dividend shall be treated as a disposition.

"(4) SECTION CANNOT INCREASE ORDINARY LOSS.—To the extent that (but for this paragraph) this section would create or increase a net ordinary loss to which section 1231(a)(2) applies or an ordinary loss to which any other provision of this title applies, such provision shall not apply. The taxpayer shall be treated as having a long-term capital loss in an amount equal to the amount of the ordinary loss to which the preceding sentence applies.

"(5) ACQUISITION DATE WHERE THERE HAS BEEN PRIOR APPLICATION OF SUBSECTION (a)(1) WITH RESPECT TO THE TAXPAYER.—If there has been a prior application of subsection (a)(1) to an asset while such asset was held by the taxpayer, the date of acquisition of such asset by the taxpayer shall be treated as not earlier than the date of the most recent such prior application.

"(6) COLLAPSIBLE CORPORATIONS.—The application of section 341(a) (relating to collapsible corporations) shall be determined without regard to this section.

"(e) CERTAIN CONDUIT ENTITIES.—

"(1) REGULATED INVESTMENT COMPANIES; REAL ESTATE INVESTMENT TRUSTS; COMMON TRUST FUNDS.—

"(A) IN GENERAL.—Stock in a qualified investment entity shall be an indexed asset for any calendar month in the same ratio as the fair market value of the assets held by such entity at the close of such month which are indexed assets bears to the fair market value of all assets of such entity at the close of such month.

"(B) RATIO OF 90 PERCENT OR MORE.—If the ratio for any calendar month determined under subparagraph (A) would (but for this subparagraph) be 90 percent or more, such ratio for such month shall be 100 percent.

"(C) RATIO OF 10 PERCENT OR LESS.—If the ratio for any calendar month determined under subparagraph (A) would (but for this subparagraph) be 10 percent or less, such ratio for such month shall be zero.

"(D) VALUATION OF ASSETS IN CASE OF REAL ESTATE INVESTMENT TRUSTS.—Nothing in this paragraph shall require a real estate investment trust to value its assets more frequently than once each 36 months (except where such trust ceases to exist). The ratio under subparagraph (A) for any calendar month for which there is no valuation shall be the trustee's good faith judgment as to such valuation.

"(E) QUALIFIED INVESTMENT ENTITY.—For purposes of this paragraph, the term 'qualified investment entity' means—

"(i) a regulated investment company (within the meaning of section 851),

"(ii) a real estate investment trust (within the meaning of section 856), and

"(iii) a common trust fund (within the meaning of section 584).

"(2) PARTNERSHIPS.—In the case of a partnership, the adjustment made under subsection (a) at the partnership level shall be passed through to the partners.

"(3) SUBCHAPTER S CORPORATIONS.—In the case of an electing small business corporation, the adjustment under subsection (a) at the corporate level shall be passed through to the shareholders.

"(f) DISPOSITIONS BETWEEN RELATED PERSONS.—

"(1) IN GENERAL.—This section shall not apply to any sale or other disposition of property between related persons except to the extent that the basis of such property in the hands of the transferee is a substituted basis.

"(2) RELATED PERSONS DEFINED.—For purposes of this section, the term 'related persons' means—

"(A) persons bearing a relationship set forth in section 267(b), and

"(B) persons treated as single employer under subsection (b) or (c) of section 414.

"(g) TRANSFERS TO INCREASE INDEXING ADJUSTMENT OR DEPRECIATION ALLOWANCE.—If any person transfers cash, debt, or any other property to another person and the principal purpose of such transfer is—

"(1) to secure or increase an adjustment under subsection (a), or

"(2) to increase (by reason of an adjustment under subsection (a)) a deduction for depreciation, depletion, or amortization,

the Secretary may disallow part or all of such adjustment or increase.

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

"(1) NET LEASE PROPERTY DEFINED.—The term 'net lease property' means leased real property where—

"(A) the term of the lease (taking into account options to renew) was 50 percent or more of the useful life of the property, and

"(B) for the period of the lease, the sum of the deductions with respect to such property which are allowable to the lessor solely by reason of section 162 (other than rents and reimbursed amounts with respect to such property) is 15 percent or less of the rental income produced by such property.

"(2) STOCK INCLUDES INTEREST IN COMMON TRUST FUND.—The term 'stock in a corporation' includes any interest in a common trust fund (as defined in section 584(a)).

"(i) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of this section."

(b) CLERICAL AMENDMENT.—The table of sections for part II of subchapter O of such chapter 1 of such Code is amended by inserting after the item relating to section 1021 the following new item:

"Sec. 1022. Indexing of certain assets for purposes of determining gain or loss."

(c) ADJUSTMENT TO APPLY FOR PURPOSES OF DETERMINING EARNINGS AND PROFITS.—Subsection (f) of section 312 of such Code (relating to effect on earnings and profits of gain or loss and of receipt of tax-free distributions) is amended by adding at the end thereof the following new paragraph:

"(3) EFFECT ON EARNINGS AND PROFITS OF INDEXED BASIS.—

"For substitution of indexed basis for adjusted basis in the case of the disposition of certain assets after December 31, 1990, see section 1022(a)(1).".

SEC. 6. INDEXING OF LIMITATION ON CAPITAL LOSSES OF INDIVIDUALS.

Section 1211 of the Internal Revenue Code of 1986 (relating to limitation on capital losses) is amended by adding at the end thereof the following new subsection:

"(c) INDEXATION OF LIMITATION ON NONCORPORATE TAXPAYERS.—

"(1) IN GENERAL.—In the case of any taxable year beginning in a calendar year after 1991, the $3,000 and $1,500 amounts under subsection (b)(1) shall be increased by an amount equal to—

"(A) such dollar amount, multiplied by

"(B) the applicable inflation adjustment for the calendar year in which the taxable year begins."

"(2) APPLICABLE INFLATION ADJUSTMENT.—For purposes of paragraph (1), the applicable inflation adjustment for any calendar year is the percentage (if any) by which—

"(A) the gross national product deflator for the last calendar quarter of the preceding calendar year, exceeds

"(B) the gross national product deflator for the last calendar quarter of 1991.

For purposes of this paragraph, the term 'gross national product deflator' has the meaning given such term by section 1022(c)(3)."

SEC. 7. EFFECTIVE DATES.

(a) IN GENERAL.—Except as provided in subsection (b), the amendments made by this Act shall apply to sales or exchanges occurring after March 7, 1991, in taxable years ending after such date.

(b) INDEXING OF LOSS LIMITATION.—The amendments made by section 6 of this Act shall apply to taxable years beginning after December 31, 1991.

RAIL SAFETY ENFORCEMENT AND REVIEW ACT

DANFORTH (AND OTHERS) AMENDMENT NO. 2937

Mr. BENTSEN (for Mr. DANFORTH, for himself, Mr. BOND, and Mr. SIMON) proposed an amendment to the amendments of the House to the amendment of the Senate to the bill (H.R. 2607) to authorize activities under the Federal Railroad Safety Act of 1970 for fiscal years 1992 and 1993, and for other purposes; as follows:

At the end of the bill, add the following new section:

SEC. 19. AIRPORT LEASES.

(a) FINDINGS.—Congress finds that—

(1) there are major airports served by an air carrier that has leased a substantial majority of the airport's gates;

(2) the commerce in the region served by such a major airport can be disrupted if the air carrier that leases most of its gates enters bankruptcy and either discontinues or materially reduces service; and

(3) it is important that such airports be empowered to continue service in the event of such a disruption.

(b) BANKRUPTCY RULES REGARDING UNEXPIRED LEASES.—Section 365(d) of title 11, United States Code, is amended by adding at the end the following new paragraphs:

"(5) Notwithstanding paragraphs (1) and (4) of this subsection, in a case under any chapter of this title, if the trustee does not assume or reject an unexpired lease of nonresidential real property under which the debtor is an affected air carrier that is the lessee of an aircraft terminal or aircraft gate before the occurrence of a termination event, then (unless the court orders the trustee to assume such unexpired leases within 5 days after the termination event), at the option of the airport operator, such lease is deemed rejected 5 days after the occurrence of a termination event and the trustee shall immediately surrender possession of the premises to the airport operator; except that the lease shall not be deemed to be rejected unless the airport operator first waives the right to damages related to the rejection. In the event that the lease is deemed to be rejected under this paragraph, the airport operator shall provide the affected air carrier adequate opportunity after the surrender of the premises to remove the fixtures and equipment installed by the affected air carrier.

"(6) For the purpose of paragraph (5) of this subsection and paragraph (f)(1) of this section, the occurrence of a termination event means, with respect to a debtor which is an affected air carrier that is the lessee of an aircraft terminal or aircraft gate—

"(A) the entry under section 301 or 302 of this title of an order for relief under chapter 7 of this title;

"(B) the conversion of a case under any chapter of this title to a case under chapter 7 of this title; or

"(C) the granting of relief from the stay provided under section 362(a) of this title with respect to aircraft, aircraft engines, propellers, appliances, or spare parts, as defined in section 101 of the Federal Aviation Act of 1958 (49 App. U.S.C. 1301), except for property of the debtor found by the court not to be necessary to an effective reorganization.

"(7) Any order entered by the court pursuant to paragraph (4) extending the period within which the trustee of an affected air carrier must assume or reject an unexpired lease of nonresidential real property shall be without prejudice to—

"(A) the right of the trustee to seek further extensions within such additional time period granted by the court pursuant to paragraph (4); and

"(B) the right of any lessor or any other party in interest to request, at any time, a shortening or termination of the period within which the trustee must assume or reject an unexpired lease of nonresidential real property.

"(8) The burden of proof for establishing cause for an extension by an affected air carrier under paragraph (4) or the maintenance of a previously granted extension under paragraph (7) (A) and (B) shall at all times remain with the trustee.

"(9) for purposes of determining cause under paragraph (7) with respect to an unexpired lease of nonresidential real property between the debtor that is an affected air carrier and an airport operator under which such debtor is the lessee of an airport terminal or an airport gate, the court shall consider, among other relevant factors, whether substantial harm will result to the airport operator or airline passengers as a result of the extension or the maintenance of a previously granted extension. In making the determination of substantial harm, the court shall consider, among other relevant factors, the level of actual use of the terminals or gates which are the subject of the lease, the public interest in actual use of such terminals or gates, the existence of competing demands for the use of such terminals or gates the effect of the court's extension or termination of the period of time to assume or reject the lease on such debtor's ability to successfully reorganize under chapter 11 of this title, and whether the trustee of the affected air carrier is capable of continuing to comply with its obligations under section 365(d)(3) of this title.".

(c) PARTIAL ASSIGNMENTS OR ASSUMPTIONS OF LEASES.—Section 365(c) of title 11, United States Code, is amended—

(1) by striking "or" at the end of paragraph (2);

(2) by striking the period at the end of paragraph (3) and inserting in lieu thereof "; or"; and

(3) by adding at the end the following new paragraph:

"(4) such lease is of nonresidential real property under which the debtor is the lessee of an aircraft terminal or aircraft gate at an airport at which the debtor is the lessee under one or more additional nonresidential leases of an aircraft terminal or aircraft gate and the trustee, in connection with such assumption or assignment, does not assume all such leases or does not assume and assign all of such leases to the same person, except that the trustee may assume or assign less than all of such leases with the airport operator's written consent.".

(d) PROHIBITION OF LEASE ASSIGNMENTS AFTER TERMINATION EVENT.—Section 365(f)(1) of title 11, United States Code, is amended by striking the period at the end and inserting in lieu thereof the following: "; except that the trustee may not assign an unexpired lease of nonresidential real property under which the debtor is an affected air carrier that is the lessee of an aircraft terminal or aircraft gate if there has occurred a termination event.".

(e) AFFECTED AIR CARRIER DEFINED.—Section 365 of title 11, United States Code, is amended by adding at the end the following new subsection:

"(p) In this section, 'affected air carrier' means an air carrier, as defined in section 101(3) of the Federal Aviation Act of 1958, that holds 65 percent or more in number of the aircraft gates at an airport—

"(1) which is a Large Air Traffic Hub as defined by the Federal Aviation Administration in Report FAA-AP 92-1, February 1992; and

"(2) all of whose remaining aircraft gates are leased or under contract on the date of enactment of this subsection.".

(f) APPLICABILITY.—The amendments made by this section shall be in effect for the 12-month period that begins on the date of enactment of this Act and shall apply in all proceedings involving an affected air carrier (as defined in section 365(p) of title 11, United States Code, as amended by this section) that are pending during such 12-month period. Not later than 9 months after the date of enactment, the Administrator of the Federal Aviation Administration shall report to the Committee on Commerce, Science, and Transportation and Committee on the Judiciary of the Senate and the Committee on the Judiciary and Committee on Public Works and Transportation of the House of Representatives on whether this section shall apply to proceedings that are commenced after such 12-month period.

TAX ENTERPRISE ZONES ACT

BRADLEY (AND WELLSTONE) AMENDMENT NO. 2938

Mr. BRADLEY (for himself and Mr. WELLSTONE) proposed an amendment to the bill H.R. 11, supra, as follows:

On page 897, line 21, strike "1991." and insert "1991, with respect to property placed in service in taxable years beginning before 1987."

Beginning on page 918, line 15, strike all through page 924, line 3.

On page 947, strike line 16 and insert the following:

(b) MODIFICATION OF AMT DEPRECIATION METHOD.—Clause (ii) of section 56(a)(1)(A) (relating to depreciation) is amended—

(1) by striking "150 percent" and inserting "120 percent", and

(2) by striking "150-PERCENT" in the heading and inserting "120-PERCENT".

(c) EFFECTIVE DATES.—

On page 1811, after line 9, insert the following new title:

TITLE _____—NEW URBAN INITIATIVES

Subtitle A—Job Corps

SEC. _____01. REAUTHORIZATION OF JOB CORPS.

Section 3(d) of the Job Training Partnership Act (29 U.S.C. 1502(d)) is amended—

(1) by inserting "(1)" after the subsection designation; and

(2) by adding at the end thereof the following new paragraph:

"(2)(A) There are authorized to be appropriated $200,000,000 for each of the fiscal years 1993 through 1997, to be made available under part B if title IV for the construction of 40 new Job Corps centers, the making of repairs to existing centers, and the enrollment of up to 30,000 additional disadvantaged youth under such part in each fiscal year.

"(B) Any new centers constructed under this paragraph shall serve applicants residing in Economically Distressed Central Cities (as defined in section _____41 of the Revenue Act of 1992).

"(C) Amounts appropriated under this paragraph for fiscal year 1993 shall not be counted for purposes of any budget total or limitation for such fiscal year under the Balanced Budget and Emergency Deficit Control Act of 1985 or the Congressional Budget Act of 1974.

Subtitle B—Community Policing; Cop on the Beat

SEC. _____11. SHORT TITLE.

This subtitle may be cited as the "Community Policing; Cop on the Beat Act of 1992".

SEC. _____12. COMMUNITY POLICING; COP ON THE BEAT.

(a) IN GENERAL.—Title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3711 et seq.) is amended—

(1) by redesignating part P as part Q;

(2) by redesignating section 1601 as section 1701; and

(3) by inserting after part O the following new part:

"PART P—COMMUNITY POLICING; COP ON THE BEAT

"SEC. 1601. GRANT AUTHORIZATION.

"(a) GRANT PROJECTS.—The Director of the Bureau of Justice Assistance may make grants to units of local government and to community groups in Economically Distressed Central Cities (as defined in section _____41 of the Revenue Act of 1992) to establish or expand cooperative efforts between police and community for purposes of increasing police presence in the community, including—

"(1) developing innovative neighborhood-oriented policing programs;

"(2) providing new technologies to reduce the amount of time officers spend processing cases instead of patrolling the community;

"(3) purchasing equipment to improve communications between officers and the community and to improve the collection, analysis, and use of information about crime-related community problems;

"(4) developing policies that reorient police emphasis from reacting to crime to preventing crime;

"(5) creating decentralized police substations throughout the community to encourage interaction and cooperation between the public and law enforcement personnel on the local level;

"(6) providing training and problem solving for community crime problems;

"(7) providing training in cultural differences for law enforcement officials;

"(8) developing community-based crime prevention programs, such as safety programs for senior citizens, community anticrime groups, and other anticrime awareness programs;

"(9) developing crime prevention programs in communities which have experienced a recent increase in gang-related violence; and

"(10) developing projects following the model under subsection (b).

"(b) MODEL PROJECT.—The Director shall develop a written model that informs community members regarding—

"(1) how to identify the existence of a drug or gang house;

"(2) what civil remedies, such as public nuisance violations and civil suits in small claims court, are available; and

"(3) what mediation techniques are available between community members and individuals who have established a drug or gang house in such community.

"SEC. 1602. APPLICATION.

"(a) IN GENERAL.—(1) To be eligible to receive a grant under this part, a chief executive of a unit of local government, a duly authorized representative of a combination of local governments within a geographic region, or a community group shall submit an application to the Director in such form and containing such information as the Director may reasonably require.

"(2) In such application, one office, or agency (public, private, or nonprofit) shall be designated as responsible for the coordination, implementation, administration, accounting, and evaluation of services described in the application.

"(b) GENERAL CONTENTS.—Each application under subsection (a) shall include—

"(1) a request for funds available under this part for the purposes described in section 1601;

"(2) a description of the areas and populations to be served by the grant; and

"(3) assurance that Federal funds received under this part shall be used to supplement, not supplant, non-Federal funds that would otherwise be available for activities funded under this part.

"(c) COMPREHENSIVE PLAN.—Each application shall include a comprehensive plan which contains—

"(1) a description of the crime problems within the areas targeted for assistance;

"(2) a description of the projects to be developed;

"(3) a description of the resources available in the community to implement the plan together with a description of the gaps in the plan that cannot be filled with existing resources;

"(4) an explanation of how the requested grant shall be used to fill those gaps;

"(5) a description of the system the applicant shall establish to prevent and reduce crime problems; and

"(6) an evaluation component, including performance standards and quantifiable goals the applicant shall use to determine project progress, and the data the applicant shall collect to measure progress toward meeting project goals.

"SEC. 1603. ALLOCATION OF FUNDS; LIMITATIONS ON GRANTS.

"(a) ALLOCATION.—The Director shall allocate not less than 75 percent of the funds available under this part to units of local government or combinations of such units and not more than 20 percent of the funds available under this part to community groups.

"(b) ADMINISTRATIVE COST LIMITATION.—The Director shall use not more than 5 percent of the funds available under this part for the purposes of administration, technical assistance, and evaluation.

"(c) RENEWAL OF GRANTS.—A grant under this part may be renewed for up to 2 additional years after the first fiscal year during which the recipient receives its initial grant, subject to the availability of funds, if the director determines that the funds made available to the recipient during the previous year were used in a manner required under the approved application and if the recipient can demonstrate significant progress toward achieving the goals of the plan required under section 1602(c).

"(d) FEDERAL SHARE.—The Federal share of a grant made under this part may not exceed 75 percent of the total costs of the projects described in the application submitted under section 1602 for the fiscal year for which the projects receive assistance under this part.

"SEC. 1604. AWARD OF GRANTS.

"(a) SELECTION OF RECIPIENTS.—The Director shall consider the following factors in awarding grants to units of local government or combinations of such units under this part:

"(1) NEED AND ABILITY.—Demonstrated need and evidence of the ability to provide the services described in the plan required under section 1602(c).

"(2) COMMUNITY-WIDE RESPONSE.—Evidence of the ability to coordinate community-wide response to crime.

"(3) MAINTAIN PROGRAM.—The ability to maintain a program to control and prevent crime after funding under this part is no longer available.

"(b) GEOGRAPHIC DISTRIBUTION.—The Director shall attempt, to the extent practicable, to achieve an equitable geographic distribution of grant awards.

"SEC. 1605. REPORTS.

"(a) REPORT TO DIRECTOR.—Recipients who receive funds under this part shall submit to the Director not later than March 1 of each year a report that describes progress achieved in carrying out the plan required under section 1602(c).

"(b) REPORT TO CONGRESS.—The Director shall submit to the Congress a report by October 1 of each year that shall contain a detailed statement regarding grant awards, activities of grant recipients, and an evaluation of projects established under this part.

"SEC. 1606. DEFINITIONS.

"For the purposes of this part:

"(1) The term 'community group' means a community-based nonprofit organization that has a primary purpose of crime prevention.

"(2) The term 'Director' means the Director of the Bureau of Justice Assistance.".

(b) CONFORMING AMENDMENT.—The table of contents of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3711 et seq.) is amended by striking the matter relating to part P and inserting the following:

"PART P—COMMUNITY POLICING; COP ON THE BEAT GRANTS

"Sec. 1601. Grant authorization.
"Sec. 1602. Application.
"Sec. 1603. Allocation of funds; limitation on grants.
"Sec. 1604. Award of grants.
"Sec. 1605. Reports.
"Sec. 1606. Definitions.

"PART Q—TRANSITION; EFFECTIVE DATE; REPEALER

"Sec. 1701. Continuation of rules, authorities, and proceedings.".

SEC. _____13. AUTHORIZATION OF APPROPRIATIONS.

Section 1001(a) of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3793) is amended—

(1) by redesignating the last 3 paragraphs as paragraphs (7), (8), and (9); and

(2) by adding after paragraph (9) the following:

"(10)(A) There are authorized to be appropriated $150,000,000 for each of the fiscal years 1993, 1994, 1995, 1996, and 1997 to carry out the projects under part P.

"(B) Amounts appropriated under this paragraph for fiscal year 1993 shall not be counted for purposes of any budget total or limitation for such fiscal year under the Balanced Budget and Emergency Deficit Control Act of 1985 or the Congressional Budget Act of 1974.".

Subtitle C—Entrepreneurship and Self-Employment Training

SEC. ____21. SPECIALIZED TRAINING CURRICULUM GRANTS.

(a) IN GENERAL.—The Secretary of Labor (hereafter referred to in this section as the "Secretary") shall award competitive grants to five community colleges that serve Economically Distressed Central Cities to enable such colleges to develop specialized training curricula for entrepreneurship and self-employment for disadvantaged, inner-city individuals.

(b) APPLICATION.—To be eligible to receive a grant under this section a community college shall prepare and submit to the Secretary an application at such time, in such manner, and containing such information as the Secretary may require, including assurances that the applicant serves an Economically Distressed Central City.

(c) CURRICULUM.—In developing a curriculum with amounts received under a grant awarded under subsection (a), a community college shall ensure that the curriculum includes training components with respect to cash accounting, credit, business communications, inventory management, and other basic business skills determined appropriate by the Secretary.

(d) TERM OF GRANTS.—A grant awarded under this section shall be for a term of 1 year.

(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section, $10,000,000 for fiscal year 1993.

SEC. ____22. TRAINING GRANTS.

(a) IN GENERAL.—The Secretary of Labor (hereafter referred to in this section as the "Secretary") shall award competitive grants to community colleges and community development corporations to enable such colleges and corporations to provide training under the curricula developed under section ____21.

(b) APPLICATION.—To be eligible to receive a grant under this section an entity of the type described in subsection (a) shall prepare and submit to the Secretary an application at such time, in such manner, and containing such information as the Secretary may require.

(c) TRAINING.—Amounts provided under a grant awarded under this section shall be used to enable the grantee to provide training, through 6 to 12 week training programs offered in coordination with the curricula developed under section ____21, to residents of Economically Distressed Central Cities that—

(1) have been unemployed in excess of 20 consecutive weeks;

(2) have recently been discharged from the armed forces;

(3) receive assistance under title IV of the Social Security Act; or

(4) are otherwise determined appropriate by the Secretary.

(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section, $85,000,000 for each of the fiscal years 1994 through 1997.

SEC. ____23. LOAN GUARANTEE PROGRAM.

(a) IN GENERAL.—The Administrator of the Small Business Administration (hereafter referred to in this section as the "Administrator") shall establish a loan guarantee program under which the Administrator shall guarantee loans made by community development corporations or community development credit unions to eligible individuals.

(b) ELIGIBILITY FOR GUARANTEES.—With respect to a loan made by a community development corporation or community development credit union, to be eligible to receive a loan guarantee covering such loan under the program established under subsection (a), the community development corporation or community development credit union shall—

(1) prepare and submit to the Administrator an application at such time, in such manner, and containing such information as the Administrator may require;

(2) certify in such application that such loan was made to an eligible individual as described in subsection (c); and

(3) meet such other requirements as the Administrator may require.

(c) ELIGIBILITY FOR LOANS.—To be eligible to receive a loan for which a guarantee may be provided under subsection (a), an individual shall—

(1) prepare and submit to the appropriate community development corporation or community development credit union an application at such time, in such manner, and containing such information as the corporation may require;

(2) have completed a training program of the type described in section ____22;

(3) ensure that amounts received under the loan will be used to start up a business that is located in an Economically Distressed Central City and provide a detailed description of the business that the individual intends to establish; and

(4) meet such other requirements as the Administrator of corporation may require.

(d) PROCESS FOR IMPLEMENTATION OF PROGRAM.—Not later than 90 days after the date of enactment of this Act, the Administrator shall develop and publish procedures under which the Administrator shall provide loan guarantees under the program established under subsection (a). Such procedures shall include—

(1) application procedures;

(2) criteria which community development corporations or community development credit unions should apply when considering applications for loans to which guarantees may be provided under this section;

(3) criteria that the Administrator will utilize in considering applications submitted for guarantees under this section;

(4) any other information determined appropriate by the Administrator.

(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section, $150,000,000 for fiscal years 1994 through 1997.

SEC. ____24. LIMITATION.

To be eligible to receive a grant or participate in the loan guarantee program under this title, a community development corporation, community development credit union, or community college shall provide assurances in the application submitted by such college, corporation, or credit union under this title that the area served by such college, corporation, or credit union has an unemployment rate, with respect to the 12-month period preceding the date on which the application is submitted, in excess of 9 percent.

SEC. ____25. MISCELLANEOUS PROVISIONS.

(a) PREFERENCES.—In awarding grants or loan guarantees under this title, preference shall be given to applicants demonstrating an intention to serve or supply a business receiving enterprise zone tax credits.

(b) DEFINITIONS.—As used in this title:

(1) COMMUNITY COLLEGE.—The term "community college" has the same meaning given the term "junior or community college" in section 312(e) of the Higher Education Act of 1965.

(2) COMMUNITY DEVELOPMENT CORPORATION.—The term "community development corporation" means a private, nonprofit corporation whose board of directors is comprised of business, civic and community leaders, and whose principal purpose includes the provision of low-income housing or community economic development projects that primarily benefit low-income individuals and communities.

(3) COMMUNITY DEVELOPMENT CREDIT UNION.—The term "community development credit union" means a credit union accredited by the National Credit Union Association that serves predominantly low-income members.

SEC. ____26. BUDGETARY CONSIDERATIONS.

Amounts appropriated under this subtitle for fiscal year 1993 shall not be counted for purposes of any budget total or limitation for such fiscal year under the Balanced Budget and Emergency Deficit Control Act of 1985 or the Congressional Budget Act of 1974.

Subtitle D—Neighborhood Reconstruction Corps

SEC. ____31. ESTABLISHMENT OF PROGRAM.

(a) IN GENERAL.—The Secretary of Commerce (hereafter referred to in this section as the "Secretary"), acting through the Economic Development Administration, shall establish a program, to be known as the Neighborhood Reconstruction Corps Program, under which the Secretary shall award competitive matching grants to eligible entities to enable such entities to employ individuals to perform infrastructure repair services in Economically Distressed Central Cities.

(b) ELIGIBILITY AND APPLICATION.—To be eligible to receive a matching grant under the program established under subsection (a), an entity shall—

(1) be a nonprofit community development corporation, a local government or local government equivalent, or a private business entity;

(2) be located in an area of high unemployment and poverty within an Economically Distressed Central City;

(3) prepare and submit to the Secretary an application at such time, in such manner and containing such information as the Secretary may require, including—

(A) a description of the activities to be carried out with amounts received under the grant;

(B) a certification from the State or local governmental entity with respect to such activities;

(C) assurances, satisfactory to the Secretary, that non-Federal funds will be provided by the applicant to carry out activities under the grant; and

(D) any other information determined appropriate by the Secretary;

(3) meet any other requirements determined appropriate by the Secretary.

(c) USE OF AMOUNTS.—

(1) IN GENERAL.—An entity that receives a matching grant under this section shall use amounts received under such grant to employ economically disadvantaged individuals in projects to perform light, labor-intensive infrastructure repair.

(2) REQUIREMENTS.—Projects funded under paragraph (1) shall—

(A) be for the repair of—

(i) public facilities, including schools, governmental buildings, and public housing facilities; or

(ii) publicly owned property not otherwise covered under clause (i), including roadways, bridges and sewers;

(B) involve work identified by the interested local government as backlogged maintenance;

(C) not cost in excess $500,000;

(D) with respect to projects carried out by private entities, not be utilized as a condition for any kind of waiver or exemption for such entities from local zoning or property tax laws;

(E) employ individuals residing in the community to be served by the project;

(F) provide such individuals with the necessary training in a construction trade to enable such individuals to carry out their duties under the project;

(G) provide the training required under subparagraph (F) through a partnership with a local contractor or a construction trade union; and

(H) meet such other requirements as the Secretary determines appropriate.

(d) AMOUNT OF GRANT.—The amount of a grant awarded under this section shall not exceed the amount contributed to the project by the applicant entity. Such contributed amounts shall be non-Federal in nature and be made available directly or through donations from public or private entities.

(e) AUTHORIZATION OF APPROPRIATIONS.—

(1) IN GENERAL.—There are authorized to be appropriated to carry out this section, $100,000,000 for each of the fiscal years 1993 through 1997.

(2) USE.—Of the amounts appropriated for each fiscal years under paragraph (1)—

(A) not to exceed 5 percent of such amount shall be used for administrative costs; and

(B) the remainder of such amounts shall be used to award matching grants.

(3) BUDGETARY IMPLICATIONS.—Amounts appropriated under this subsection for fiscal year 1993 shall not be counted for purposes of any budget total or limitation for such fiscal year under the Balanced Budget and Emergency Deficit Control Act of 1985 or the Congressional Budget Act of 1974.

(f) DEFINITION.—As used in this section the term "community development corporation" means a private, nonprofit corporation whose board of directors is comprised of business, civic and community leaders, and whose principal purpose includes the provision of low-income housing or community economic development projects that primarily benefit low-income individuals and communities.

Subtitle E—Economically Distressed Central Cities

SEC. ____41. ECONOMICALLY DISTRESSED CENTRAL CITIES.

(a) LIST OF CITIES.—Not later than 90 days after the date of enactment of this Act, the Secretary of Housing and Urban Development shall promulgate a list of cities that are designated as "Economically Distressed Central Cities". The Secretary shall make such list of cities available to the Secretary of Labor, the Secretary of Commerce, and the Director of the Small Business Administration.

(b) REQUIREMENTS.—To be an Economically Distressed Central City under subsection (a), a city shall—

(1) be a metropolitan city (as defined in section 102(a)(4) of the Housing and Community Development Act of 1974 (42 U.S.C. 5302(a)(4));

(2) be eligible to receive an allocation of funds under section 106(a)(3) of the Housing and Community Development Act of 1974 for the most recent fiscal year ending prior to the date of enactment of this title;

(3) have a population of at least 30,000; and

(4) have a need adjusted per capita income less than 1.25 (as determined under subsection (c)) on the basis of the most recent data available.

(c) NEED ADJUSTED PER CAPITA INCOME.—The Secretary of Housing and Urban Development shall determine the Need Adjusted Per Capita Income for each city that meets the requirements of paragraphs (1) and (2) of subsection (b) under the following formula:

(1) DETERMINATION OF NEED INDEX.—

(A) For purposes of this section, the term "need index" means the number equal to the quotient of—

(i) the term "N", as determined under subparagraph (B); divided by

(ii) the term "P", as determined under subparagraph (C).

(B) For purposes of subparagraph (A)(i), the term 'N' means the percentage constituted by the ratio of—

(i) the amount of funds allotted to the city in the fiscal year in which the calendar year begins under section 106(a)(3) of the Housing and Community Development Act of 1974; to

(ii) the sum of the amount of funds received by all eligible cities in such fiscal year under section 106(a)(3) of the Housing and Community Development Act of 1974.

(C) For purposes of subparagraph (A)(ii), the term "P" means the percentage constituted by the ratio of—

(i) the amount equal to the total population of the city, as determined by the Secretary using the most recent data that is available from the Secretary of Commerce pursuant to the decennial census and pursuant to reasonable estimates by such Secretary of changes occurring in the data in the ensuing period, to

(ii) the amount equal to the total population of all eligible cities in the current fiscal year.

(D) For purposes of this paragraph, the term "eligible cities" means those cities which meet the requirements of paragraph (1) and (2) of subsection (b).

(2) DETERMINATION OF NEED ADJUSTED PER CAPITA INCOME FACTOR.—

(A) For purposes of this section (and subject to subparagraph (D)), the term "need adjusted per capita income factor" means the amount equal to the percentage determined for the city in accordance with the following formula:

(B) For purposes of subparagraph (A), the term "I" means the per capita income of the city for the most recent year for which data is available, as determined by the Secretary of Commerce.

(C) For purposes of subparagraph (A), the term "Q" means the product of—

(i) the need index of such city, as determined under paragraph (1); and

(ii) the amount equal to the per capita income of the United States for the most recent year for which data is available, as determined by the Secretary of Commerce.

(D) In the case of a city for which the quotient of the term "I" (as determined under subparagraph (B)) divided by the term "Q" (as determined under subparagraph (C)) is less than 0.2, then such quotient shall be deemed to be equal to 0.2 for such city for purposes of the formula under subparagraph (A).

DOLE (AND OTHERS) AMENDMENT NO. 2939

Mr. DOLE (for himself, Mr. ROCKEFELLER, Mr. HATCH, Mr. BAUCUS, Mr. BURNS, Mr. RIEGLE, Mr. GARN, Mr. CONRAD, Mr. SPECTER, Mr. SHELBY, Mr. WOFFORD, Mr. FORD, Mr. DOMENICI, and Mr. BINGAMAN) proposed an amendment to the bill H.R. 11, supra; as follows:

Strike part II of subtitle B of title II and insert the following:

PART II—EXTENSION OF CERTAIN EXPIRING TAX PROVISIONS

SEC. 2141. EMPLOYER-PROVIDED EDUCATIONAL ASSISTANCE.

(a) IN GENERAL.—Subsection (d) of section 127 (relating to educational assistance programs) is amended by striking "June 30, 1992" and inserting "September 30, 1993".

(b) CONFORMING AMENDMENT.—Paragraph (2) of section 103(a) of the Tax Extension Act of 1991 is amended by striking "July 1, 1992" each place it appears and inserting "October 1, 1993".

(c) EFFECTIVE DATE.—The amendments made this section shall apply to taxable years ending after June 30, 1992.

SEC. 2142. EMPLOYER-PROVIDED GROUP LEGAL SERVICES PLANS.

(a) IN GENERAL.—Subsection (e) of section 120 (relating to amounts received under qualified group legal services plans) is amended by striking "June 30, 1992" and inserting "September 30, 1993".

(b) CONFORMING AMENDMENT.—Paragraph (2) of section 104(a) of the Tax Extension Act of 1991 is amended by striking "July 1, 1992" each place it appears and inserting "October 1, 1993".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years ending after June 30, 1992.

SEC. 2143. HEALTH INSURANCE COSTS OF SELF-EMPLOYED INDIVIDUALS.

(a) IN GENERAL.—Paragraph (6) of section 162(l) (relating to special rules for health insurance costs of self-employed individuals) is amended by striking "June 30, 1992" and inserting "September 30, 1993".

(b) CONFORMING AMENDMENT.—Paragraph (2) of section 110(a) of the Tax Extension Act of 1991 is amended by striking "July 1, 1992" each place it appears and inserting "October 1, 1993".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years ending after June 30, 1992.

SEC. 2144. QUALIFIED MORTGAGE BONDS.

(a) IN GENERAL.—Subparagraph (B) of section 143(a)()1) (defining qualified mortgage bond) is amended by striking "June 30, 1992" and inserting "September 30, 1993".

(b) MORTGAGE CREDIT CERTIFICATES.—Subsection (h) of section 25 (relating to interest on certain home mortgages) is amended by striking "June 30, 1992" and inserting "September 30, 1993".

(c) FINANCING ALLOWED FOR CONTRACT OF DEED AGREEMENTS.—

(1) IN GENERAL.—Paragraph (2) of section 143(d) (relating to exceptions to 3-year requirement) is amended—

(A) by striking "and" at the end of subparagraph (A),

(B) by inserting "and" at the end of subparagraph (B), and

(C) by inserting after subparagraph (B) the following new subparagraph:

"(C) financing with respect to land described in subsection (i)(1)(C) and any residence to be constructed thereon,".

(2) EXCEPTION TO NEW MORTGAGE REQUIREMENT.—Paragraph (1) of section 143(i) (relating to mortgages must be new mortgages) is amended by adding at the end the following new subparagraph:

"(C) EXCEPTION FOR CERTAIN CONTRACT OF DEED AGREEMENTS.—

"(i) IN GENERAL.—In the case of land possessed under a contract of deed by a mortgagor with family income (as defined in subsection (f)(2)) of less than $15,000 in the year in which owner-financing is provided, the contract of deed shall not be treated as an existing mortgage for purposes of subparagraph (A).

"(ii) CONTRACT OF DEED DEFINED.—For purposes of this section, the term 'contract of deed' means a seller-financed contract for the conveyance of land under which—

"(I) legal title does not pass to the purchaser until the consideration under the contract is fully paid to the seller, and

"(II) the seller's remedy for nonpayment is forfeiture rather than judicial or nonjudicial foreclosure.

"(iii) ADJUSTMENT TO INCOME LEVEL.—In the case of any calendar year after 1992, the dollar amount contained in clause (i) 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, by substituting 'calendar year 1991' for 'calendar year 1989' in subparagraph (B) there-of."

(3) ACQUISITION COST INCLUDES COST OF LAND.—Clause (iii) of section 143(k)(3)(B) (relating to exceptions to acquisition cost) is amended by inserting "(other than land described in subsection (i)(1)(C)(k))" after "cost of land".

(d) EFFECTIVE DATES.—

(1) BONDS.—The amendment made by subsection (a) shall apply to bonds issued after June 30, 1992.

(2) CERTIFICATES.—The amendment made by subsection (b) shall apply to elections for periods after June 30, 1992.

(3) CONTRACT OF DEED AGREEMENTS.—The amendments made by subsection (c) shall apply to loans originated after the date of the enactment of this Act.

SEC. 2145. QUALIFIED SMALL ISSUE BONDS.

(a) IN GENERAL.—Subparagraph (B) of section 144(a)(12) (relating to termination dates) is amended by striking "June 30, 1992" and inserting "September 30, 1993".

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to bonds issued after June 30, 1992.

SEC. 2146. RESEARCH CREDIT.

(a) IN GENERAL.—Subsection (h) of section 41 (relating to credit for increasing research activities) is amended—

(1) by striking "June 30, 1992" each place it appears and inserting "September 30, 1993"; and

(2) by striking "July 1, 1992" each place it appears and inserting "October 1, 1993".

(b) CONFORMING AMENDMENT.—Subparagraph (D) of section 28(b)(1) is amended by striking "June 30, 1992" and inserting "September 30, 1993".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to amounts paid or incurred after June 30, 1992.

SEC. 2147. LOW-INCOME HOUSING CREDIT.

(a) EXTENSION.—

(1) IN GENERAL.—Paragraph (1) of section 42(o) (relating to termination of low-income housing credit) is amended by striking "June 30, 1992" each place it appears and inserting "September 30, 1993".

(2) CONFORMING AMENDMENT.—Paragraph (2) of section 42(o) is amended—

(A) by striking "July 1, 1992" each place it appears and inserting "October 1, 1993",

(B) by striking "June 30, 1992" in subparagraph (B) and inserting "September 30, 1993",

(C) by striking "June 30, 1994" in subparagraph (B) and inserting "September 30, 1995", and

(D) by striking "July 1, 1994" in subparagraph (C) and inserting "October 1, 1995".

(3) EFFECTIVE DATE.—The amendments made by paragraphs (1) and (2) shall apply to periods ending after June 30, 1992.

(b) MODIFICATIONS.—

(1) CARRYFORWARD RULES.—

(A) IN GENERAL.—Clause (ii) of section 42(h)(3)(D) (relating to unused housing credit carryovers allocated among certain States) is amended by striking "the excess" and all that follows and inserting "the excess (if any) of the unused State housing credit ceiling for the year preceding such year over the aggregate housing credit dollar amount allocated for such year."

(B) CONFORMING AMENDMENT.—The second sentence of section 42(h)(3)(C) (relating to State housing credit ceiling) is amended by striking "clauses (i) and (iii)" and inserting "clauses (i) through (iv)".

(2) 10-YEAR ANTI-CHURNING RULE WAIVER EXPANDED.—Clause (ii) of section 42(d)(6)(B) (defining federally assisted building) is amended by inserting ", 221(d)(4)," after "221(d)(3)".

(3) HOUSING CREDIT AGENCY DETERMINATION OF REASONABLENESS OF PROJECT COSTS.—Subparagraph (B) of section 42(m)(2) (relating to credit allocated to building not to exceed amount necessary to assure project feasibility) is amended—

(A) by striking "and" at the end of clause (ii),

(B) by striking the period at the end of clause (iii) and inserting ", and", and

(C) by inserting after clause (iii) the following new clause:

"(iv) the reasonableness of the developmental and operational costs of the project."

(4) UNITS WITH CERTAIN FULL-TIME STUDENTS NOT DISQUALIFIED.—Subparagraph (D) of section 42(i)(3) (defining low-income unit) is amended to read as follows:

"(D) CERTAIN STUDENTS NOT TO DISQUALIFY UNIT.—A unit shall not fail to be treated as a low-income unit merely because it is occupied—

"(i) by an individual who is—

"(I) a student and receiving assistance under title IV of the Social Security Act, or

"(II) enrolled in a job training program receiving assistance under the Job Training Partnership Act or under other similar Federal, State, or local laws, or

"(ii) entirely by full-time students if such students are—

"(I) single parents and their children and such parents and children are not dependents (as defined in section 152) of another individual, or

"(II) married and file a joint return."

(5) TREASURY WAIVERS OF CERTAIN DE MINIMIS ERRORS AND RECERTIFICATIONS.—Subsection (g) of section 42 (relating to qualified low-income housing projects) is amended by adding at the end thereof the following new paragraph:

"(8) WAVIER OF CERTAIN DE MINIMIS ERRORS AND RECERTIFICATIONS.—On application by the taxpayer, the Secretary may waive—

"(A) any recapture under subsection (j) in the case of any de minimis error in complying with paragraph (1), or

"(B) any annual recertification of tenant income for purposes of this subsection, if the entire building is occupied by low-income tenants."

(6) BASIS OF COMMUNITY SERVICE AREAS INCLUDED IN ADJUSTED BASIS.—Paragraph (4) of section 42(d) (relating to special rules relating to determination of adjusted basis) is amended—

(A) by striking "subparagraph (B)" in subparagraph (A) and inserting "subparagraphs (B) and (C)",

(B) by redesignating subparagraph (C) as subparagraph (D), and

(C) by inserting after subparagraph (B) the following new subparagraph:

"(C) BASIS OF PROPERTY IN COMMUNITY SERVICE AREAS INCLUDED.—The adjusted basis of any building located in a qualified census tract shall be determined by taking into account the adjusted basis of property (of a character subject to the allowance for depreciation) used in functionally related and subordinate community activity facilities if—

"(i) the size of the facilities is commensurate with tenant needs,

"(ii) such facilities are designed to serve qualifying tenants and employees of the building owner, and

"(iii) not more than 20 percent of the building's eligible basis is attributable to the aggregate basis of such facilities."

(7) EFFECTIVE DATES.—

(A) IN GENERAL.—Except as provided in subparagraphs (B) and (C), the amendments made by this subsection shall apply to—

(i) determinations under section 42 of the Internal Revenue Code of 1986 with respect to housing credit dollar amounts allocated from State housing credit ceilings after June 30, 1992, or

(ii) buildings placed in service after June 30, 1992, to the extent paragraph (1) of section 42(h) of such Code does not apply to any building by reason of paragraph (4) thereof, but only with respect to bonds issued after such date.

(B) CARRYFORWARD RULES.—The amendments made by paragraph (1) shall apply to calendar years beginning after December 31, 1991.

(C) WAIVER AUTHORITY.—The amendments made by paragraphs (2) and (5) shall take effect on the date of enactment of this Act.

(c) ELECTION TO DETERMINE RENT LIMITATION BASED ON NUMBER OF BEDROOMS.—In the case of a building to which the amendments made by section 7108(e)(1) of the Revenue Reconciliation Act of 1989 did not apply, the taxpayer may elect to have such amendments apply to such building but only with respect to tenants first occupying any unit in the building after the date of the election. Such an election may be made only during the 180 day period beginning on the date of the enactment of this Act, and shall be subject to the taxpayer entering into a compliance monitoring agreement pursuant to section 42(m)(1)(B)(iii) of the Internal Revenue Code of 1986 with the housing credit agency for the jurisdiction within which such building is located. Once made, the election shall be irrevocable.

SEC. 2148. TARGETED JOBS CREDIT.

(a) IN GENERAL.—Paragraph (4) of section 51(c) (relating to termination) is amended by striking "June 30, 1992" and inserting "September 30, 1993".

(b) INCREASE IN AGE REQUIREMENTS OF ECONOMICALLY DISADVANTAGED YOUTH.—Subparagraph (B) of section 51(d)(3) (defining

economically disadvantaged youth) is amended by striking "age 23" and inserting "age 25".

(c) ALLOWANCE OF CREDIT FOR HIRING LONG-TERM UNEMPLOYED.—

(1) IN GENERAL.—Paragraph (1) of section 51(d) (defining members of targeted groups) is amended by striking "or" at the end of subparagraph (I), by striking the period at the end of subparagraph (J) and inserting ", or", and by adding at the end the following new subparagraph:

"(K) a long-term unemployed individual."

(2) LONG-TERM UNEMPLOYED.—Section 51(d) is amended by adding at the end thereof the following new paragraph:

"(17) LONG-TERM UNEMPLOYED.—

"(A) IN GENERAL.—The term 'long-term unemployed individual' means an individual—

"(i) who has been receiving unemployment compensation at all times during the 6-month period ending with the last day of the month preceding the hiring date, or

"(ii) who—

"(I) was receiving unemployment compensation but exhausted all rights to such compensation, and

"(II) has remained unemployed during the period beginning on the date such rights were exhausted and ending on the day before the hiring date.

"(B) EFFECTIVE PERIOD.—Notwithstanding subsection (c)(4), in the case of a long-term unemployed individual, the term 'wages' shall include amounts paid or received for individuals who begin work for the employer during the 6-month period beginning on the date of the enactment of this paragraph, or during any subsequent 6-month period, if, for any month during the preceding 6-month period, the national average rate of total unemployment as determined by the Secretary of Labor exceeds 7 percent.

"(C) UNEMPLOYMENT COMPENSATION.—For purposes of this paragraph, the term 'unemployment compensation' has the meaning given such term by section 85(b).

"(D) SPECIAL RULE FOR DETERMINING AMOUNT OF CREDIT.—For purposes of applying this subpart to wages paid or incurred to any long-term unemployed individual subsection (b)(3) shall be applied by substituting '$3,000' for '$6,000'."

(3) CERTAIN INDIVIDUALS ELIGIBLE.—Section 51(i) (relating to certain individuals ineligible) is amended by adding at the end the following new paragraph:

"(4) SPECIAL RULES FOR LONG-TERM UNEMPLOYED.—No wages shall be taken into account under subsection (a) with respect to any long-term unemployed individual (as defined in subsection (d)(17)) unless—

"(A) notwithstanding paragraph (3), the individual is employed by the employer at least 120 days, and

"(B) the employer certifies on the return of tax for the taxable year for which credit is claimed that the individual was hired after the employer took reasonable actions to specifically recruit long-term unemployed individuals."

(d) MINIMUM EMPLOYMENT PERIOD.—Paragraph (3) of section 51(i) is amended to read as follows:

"(3) INDIVIDUALS NOT MEETING MINIMUM EMPLOYMENT PERIOD.—No wages shall be taken into account under subsection (a) with respect to any individual unless—

"(A) such individual is employed by the employer at least 90 days, or

"(B) in the case of an individual described in subsection (d)(12) either—

"(i) is employed by the employer at least 14 days, or

"(ii) has completed at least 20 hours of services performed for the employer."

(e) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply to individuals who begin work for the employer after June 30, 1992.

(2) LONG-TERM UNEMPLOYED AND MINIMUM PERIOD.—The amendments made by subsections (c) and (d) shall apply to individuals who begin work for the employer after the date of the enactment of this Act.

SEC. 2149. TAX CREDIT FOR ORPHAN DRUG CLINICAL TESTING EXPENSES.

(a) IN GENERAL.—Subsection (e) of section 28 (relating to clinical testing expenses for certain drugs for rare diseases or conditions) is amended by striking "June 30, 1992" and inserting "September 30, 1993".

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years ending after June 30, 1992.

SEC. 2150. EXCISE TAX ON CERTAIN VACCINES.

(a) TAX.—Paragraphs (2) and (3) of section 4131(c) (relating to tax on certain vaccines) are each amended by striking "1992" each place it appears and inserting "1994".

(b) TRUST FUND.—Paragraph (1) of section 9510(c) (relating to expenditures from Vaccine Injury Compensation Trust Fund) is amended by striking "1992" and inserting "1994".

(c) STUDY.—The Secretary of the Treasury, in consultation with the Secretary of Health and Human Services, shall conduct a study of—

(1) the estimated amount that will be paid from the Vaccine Injury Compensation Trust Fund with respect to vaccines administered after September 30, 1988, and before October 1, 1994,

(2) the rates of vaccine-related injury or death with respect to the various types of such vaccines,

(3) new vaccines and immunization practices being developed or used for which amounts may be paid from such Trust Funds,

(4) whether additional vaccines should be included in the vaccine injury compensation program, and

(5) the appropriate treatment of vaccines produced by State governmental entities.

The report of such study shall be submitted not later than January 1, 1994, to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate.

SEC. 2151. CERTAIN TRANSFERS TO RAILROAD RETIREMENT ACCOUNT.

Subsection (c)(1)(A) of section 224 of the Railroad Retirement Solvency Act of 1983 (relating to section 72(r) revenue increase transferred to certain railroad accounts) is amended by striking "with respect to benefit received before October 1, 1992".

SEC. 2152. EXTENSION OF CREDIT FOR PRODUCING FUEL FROM A NONCONVENTIONAL SOURCE.

(a) IN GENERAL.—Subsection (f) of section 29 is amended to read as follows:

"(f) APPLICATION OF SECTION.—

"(1) IN GENERAL.—This section shall apply with respect to qualified fuels—

"(A) which are—

"(i) produced from a well drilled after December 31, 1979, and before September 1, 1993, or

"(ii) produced in a facility placed in service after December 31, 1979, and before September 1, 1993, and

"(B) which are sold before January 1, 2003.

"(2) SPECIAL RULE FOR CERTAIN GAS-PRODUCING FACILITIES.—For purposes of paragraph (1), in the case of a facility for producing qualified fuels described in subparagraph (B)(ii) or (C) of subsection (c)(1)—

"(A) such facility shall, for purposes of (1)(A)(ii), be treated as being placed in service before September 1, 1993, if such facility is placed in service before January 1, 1998, pursuant to a binding written contract in effect before January 1, 1996 and at all times thereafter before such facility is placed in service, and

"(B) paragraph (1)(B) shall be applied with respect to such facility by substituting '2008' for '2003'."

(b) LIMITATION OF CREDIT.—Subsection (b) of section 29 is amended by adding at the end the following new paragraph:

"(7) LIMITATION ON GAS ELIGIBLE FOR CREDIT.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), no credit shall be allowed under subsection (a) with respect to gas produced from any well during the taxable year to the extent that the amount of the gas produced from the well exceeds 42 million cubic feet (mmcf).

"(B) EXCEPTION FOR GAS FROM TIGHT SANDS.—In the case of gas produced from a tight formation—

"(i) subparagraph (A) shall be applied by substituting '505' for '42', and

"(ii) in determining the amount of the credit under subsection (a) with respect to the production from the well producing such gas in excess of 42 million cubic feet (mmcf), $2.25 shall be substituted for

NATIONAL RAILROAD PASSENGER CORPORATION AUTHORIZATION ACT

KERRY (AND KENNEDY) AMENDMENT NO. 2940

Mr. MITCHELL (for Mr. KERRY for himself and Mr. KENNEDY) proposed an amendment to the bill (H.R. 4250) to authorize appropriations for the National Railroad Passenger Corporation, and for other purposes, as follows:

On page 3, between lines 9 and 10, insert the following:

"(c) NORTHEAST CORRIDOR.—There are authorized to be appropriated to the Secretary for the benefit of the Corporation for making capital expenditures under title VII of the Railroad Revitalization and Regulatory Improvement Act of 1976 (45 U.S.C. 851 et seq.) $220,000,000 for fiscal year 1993.

On page 3, line 10, strike "(c)" and insert "(d)".

On page 4, line 5, strike "(d)" and insert "(e)".

MOYNIHAN AMENDMENT NO. 2941

Mr. MITCHELL (for Mr. MOYNIHAN) proposed an amendment to the bill H.R. 4260, supra, as follows:

At the appropriate place, insert the following new section:

NEW YORK CITY STATION FACILITIES

SEC. . Title VIII of the Rail Passenger Service Act (45 U.S.C. 642 et seq.), as amended by this Act, is further amended by adding at the end the following new section:

"SEC. 815. NEW YORK CITY STATION FACILITIES.

"The Corporation shall develop a plan for new or redeveloped station facilities in New York City, New York, to accommodate the

intercity rail passenger service requirements of the Corporation, along with the needs of commuter rail services currently using New York Penn Station. In developing the plan, the Corporation shall consider use of the James A. Farley Post Office building as the primary facility for handling intercity passengers, shall evaluate and attempt to reach agreements concerning sources of State, local, and private funding, and shall determine the future allocation of space and costs in the existing Penn Station and new facilities among all transportation services using the facilities. The plan shall also address potential changes in existing laws that would aid development of new or redeveloped station facilities in New York City. The Corporation shall report to the Congress on the plan no later than March 1, 1993.".

NATIONAL RAILROAD PASSENGER CORPORATION AUTHORIZATION ACT

KASSEBAUM AMENDMENT NO. 2942

Mr. MITCHELL (for Mrs. KASSEBAUM) proposed an amendment to the bill (S. 2608) to authorize appropriatons for the National Railroad Passenger Corporation, and for other purposes; as follows:

On page 14, after the item following line 15, add the following:

SEC. . (a) Section 202 of the Federal Railroad Safety Act of 1970 (45 U.S.C. 431) is amended by adding a new subsection(s) to read as follows:

"(s)(1) The Secretary shall, within 6 months following the date of enactment of this subsection, issue such rules, regulations, orders and standards as may be necessary to require each intercity passenger, commuter, and freight train, other than a switch locomotive, to be equipped with alerting lights affixed to the locomotive on the leading end of the locomotive in the normal direction of movement. Such regulations shall specify the conditions under which such alerting lights shall be operated to alert highway users at highway-rail grade crossings.

"(2) For purposes of this subsection, 'alerting lights' means front end lights in addition to the locomotive's standard headlight that the Secretary determines will enhance the conspicuity of the locomotive, such as ditch lights, strobe lights, or other significant front end illumination.

"(3) The rules, regulations, orders or standards issued by the Secretary pursuant to this subsection shall require that new locomotives available for use as lead units that are placed in service after the expiration of 90 days from issuance of such rules, regulations, orders or standards, be equipped with alerting lights, and shall require all trains to be so equipped within not more than 24 months following such date of issuance.

"(4) The Secretary, on application from an operator of an affected railroad, may exempt from the requirement of this subsection any scenic, excursion, or historic train operation, if the Secretary determines that the exemption is in the public interest and consistent with railroad safety, including the safety of highway users affected by such operations.

"(5) Each intercity passenger, commuter, and freight train equipped with ditch lights or strobe lights affixed and maintained in the manner provided for alerting lights under paragraph (1) of this subsection, on the date immediately prior to the effective date of such rules, regulations, orders, or standards relating to all trains under paragraph (3), shall be considered to be in compliance with the provisions of this subsection requiring the installation of alerting lights.

"(6) DEFINITIONS.—For purposes of this section:

"(A) The term 'alerting lights' means front end lights in addition to the locomotive's standard headlight that the Secretary of Transportation determines will enhance the conspicuousness of the locomotive, such as ditch lights, strobe lights, or other significant front-end illumination.

"(B) The term 'ditch lights' means 2 headlights, in addition to the standard headlight on a locomotive, each of which is, at a minimum, 200 watts, 30 volts PAR 56.

"(C) The term 'strobe light' means an electronic tube emitting rapid, brief, and brilliant flashes of light with a minimum of 200,000 candle power.

"(D) The term 'scenic, excursion, or historic train' means any railroad whose primary purpose is to provide passengers a recreational or educational experience rather than for the purpose of transportation.

"(E) The term 'switch locomotive' means a locomotive used exclusively for switching, making up trains or storing rail cars within designated yard limits.".

UNITED NATIONS INTERNATIONAL DRIFTNET FISHERY CONSERVATION PROGRAM

PACKWOOD (AND OTHERS) AMENDMENT NO. 2943

Mr. MITCHELL (for Mr. PACKWOOD, for himself, Mr. HOLLINGS, Mr. STEVENS, Mr. KERRY, Mr. GORTON, Mr. ADAMS, Mr. LOTT, Mr. BREAUX, Mr. MURKOWSKI, and Mr. RIEGLE) proposed an amendment to the amendments of the House to the amendment of the Senate to the bill (H.R. 2152) to enhance the effectiveness of the United Nations international driftnet fishery conservation program; as follows:

Strike all after the enacting clause and insert in lieu thereof the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "High Seas Driftnet Fisheries Enforcement Act".

SEC. 2. FINDINGS AND POLICY.

(a) FINDINGS.—Congress makes the following findings:

(1) Large—scale driftnet fishing on the high seas is highly destructive to the living marine resources and ocean ecosystems of the world's oceans, including anadromous fish and other living marine resources of the United States.

(2) The cumulative effects of large-scale driftnet fishing pose a significant threat to the marine ecosystem, and slow-reproducing species like marine mammals, sharks, and seabirds may require many years to recover.

(3) Members of the international community have reviewed the best available scientific data on the impacts of large-scale pelagic driftnet fishing, and have failed to conclude that this practice has no significant adverse impacts which threaten the conservation and sustainable management of living marine resources.

(4) The United Nations, via General Assembly Resolutions numbered 44-225, 45-197 and most recently 46-215 (adopted on December 20, 1991), has called for a worldwide moratorium on all high seas driftnet fishing by December 31, 1992, in all the world's oceans, including enclosed seas and semi-enclosed seas.

(5) The United Nations has commended the unilateral, regional, and international efforts undertaken by members of the international community and international organizations to implement and support the objectives of the General Assembly resolutions.

(6) Operative paragraph (4) of United Nations General Assembly Resolution numbered 46-215 specifically "encourages all members of the international community to take measures individually and collectively to prevent large-scale pelagic driftnet fishing operations on the high seas of the world's oceans and seas."

(7) The United States, in section 307(1)(M) of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1857(1)(M)), has specifically prohibited the practice of large-scale driftnet fishing by United States nationals and vessels both within the exclusive economic zone of the United States and beyond the exclusive economic zone of any nation.

(8) The Senate, through Senate Resolution 396 of the 100th Congress (approved on March 18, 1988), has called for a moratorium on fishing in the Central Bering Sea and the United States has taken concrete steps to implement such moratorium through international negotiations.

(9) Despite the continued evidence of a decline in the fishery resources of the Bering Sea and the multiyear cooperative negotiations undertaken by the United States, the Russian Federation, Japan, and other concerned fishing nations, some nations refuse to agree to measures to reduce or eliminate unregulated fishing practices in the waters of the Bering Sea beyond the exclusive economic zones of the United States and the Russian Federation.

(10) In order to ensure that the global moratorium on large-scale driftnet fishing called for in United Nations General Assembly Resolution numbered 46-215 takes effect by December 31, 1992, and that unregulated fishing practices in the waters of the Central Bering Sea are reduced or eliminated, the United States should take the actions described in this Act and encourage other nations to take similar action.

(b) POLICY.—It is the stated policy of the United States to—

(1) implement United Nations General Assembly resolution numbered 46-215, approved unanimously on December 20, 1991, which calls for an immediate cessation to further expansion of large-scale driftnet fishing, a 50 percent reduction in existing large-scale driftnet fishing effort by June 30, 1992, and a global moratorium on the use of large-scale driftnets beyond the exclusive ecomomic zone of any nation by December 31, 1992;

(2) bring about a moratorium on fishing in the Central Bering Sea, or an international conservation and management agreement to which the United States and the Russian Federation are parties that regulation fishing in the Central Bering Sea; and

(3) secure a permanent ban on the use of destructive fishing practices, and in particular large-scale driftnets, by persons or vessels fishing beyond the exclusive economic zone of any nation.

TITLE I—HIGH SEAS LARGE-SCALE DRIFTNET FISHING

SEC. 101. DENIAL OF PORT PRIVILEGES AND SANCTIONS FOR HIGH SEAS LARGE-SCALE DRIFTNET FISHING.

(a) DENIAL OF PORT PRIVILEGES.—

(1) PUBLICATION OF LIST.—Not later than 30 days after the date of enactment of this Act and periodically thereafter, the Secretary of Commerce, in consultation with the Secretary of State, shall publish a list of nations whose nationals or vessels conduct large-scale driftnet fishing beyond the exclusive economic zone of any nation.

(2) DENIAL OF PORT PRIVILEGES.—The Secretary of the Treasury shall, in accordance with recognized principles of international law—

(A) withhold or revoke the clearance required by section 4197 of the Revised Statutes of the United States (46 App. U.S.C. 91) for any large-scale driftnet fishing vessel that is documented under the laws of the United States or of a nation included on a list published under paragraph (1); and

(B) deny entry of that vessel to any place in the United States and to the navigable waters of the United States.

(3) NOTIFICATION OF NATION.—Before the publication of a list of nations under paragraph (1), the Secretary of State shall notify each nation included on that list regarding—

(A) the effect of that publication on port privileges of vessels of that nation under paragraph (1); and

(B) any sanctions or requirements, under this Act or any other law, that may be imposed on that nation if nationals or vessels of that nation continue to conduct large-scale driftnet fishing beyond the exclusive economic zone of any nation after December 31, 1992.

(b) SANCTIONS.—

(1) IDENTIFICATIONS.—

(A) INITIAL IDENTIFICATIONS.—Not later than January 10, 1993, the Secretary of Commerce shall—

(i) identify each nation whose nationals or vessels are conducting large-scale driftnet fishing beyond the exclusive economic zone of any nation; and

(ii) notify the President and that nation of the identification under clause (i).

(B) ADDITIONAL IDENTIFICATIONS.—At any time after January 10, 1993, whenever the Secretary of Commerce has reason to believe that the nationals or vessels of any nation are conducting large-scale driftnet fishing beyond the exclusive economic zone of any nation, the Secretary of Commerce shall—

(i) identify that nation; and

(ii) notify the President and that nation of the identification under clause (i).

(2) CONSULTATIONS.—Not later than 30 days after a nation is identified under paragraph (1)(B), the President shall enter into consultations with the government of that nation for the purpose of obtaining an agreement that will effect the immediate termination of large-scale driftnet fishing by the nationals or vessels of that nation beyond the exclusive economic zone of any nation.

(3) PROHIBITION ON IMPORTS OF FISH AND FISH PRODUCTS AND SPORT FISHING EQUIPMENT.—

(A) PROHIBITION.—The President—

(i) upon receipt of notification of the identification of a nation under paragraph (1)(A); or

(ii) if the consultations with the government of a nation under paragraph (2) are not satisfactorily concluded within 90 days, shall direct the Secretary of the Treasury to prohibit the importation into the United States of fish and fish products and sport fishing equipment (as that term is defined in section 4162 of the Internal Revenue Code of 1986 (26 U.S.C. 4162)) from that nation.

(B) IMPLEMENTATION OF PROHIBITION.—With respect to an import prohibition directed under subparagraph (A), the Secretary of the Treasury shall implement such prohibition not later than the date that is 45 days after the date on which the Secretary has received the direction from the President.

(C) PUBLIC NOTICE OF PROHIBITION.—Before the effective date of any import prohibition under this paragraph, the Secretary of the Treasury shall provide public notice of the impending prohibition.

(4) ADDITIONAL ECONOMIC SANCTIONS.—

(A) DETERMINATION OF EFFECTIVENESS OF SANCTIONS.—Not later than 6 months after the date the Secretary of Commerce identifies a nation under paragraph (1), the Secretary shall determine whether—

(i) any prohibition established under paragraph (3) is insufficient to cause that nation to terminate large-scale driftnet fishing conducted by its nationals and vessels beyond the exclusive economic zone of any nation; or

(ii) that nation has retaliated against the United States as a result of that prohibition.

(B) CERTIFICATION.—The Secretary of Commerce shall certify to the President each affirmative determination under subparagraph (A) with respect to a nation.

(C) EFFECT OF CERTIFICATION.—Certification by the Secretary of Commerce under subparagraph (B) is deemed to be a certification under section 8(a) of the Fishermen's Protective Act of 1967 (22 U.S.C. 1978(a)), as amended by this Act.

SEC. 102. DURATION OF DENIAL OF PORT PRIVILEGES AND SANCTIONS.

Any denial of port privileges or sanction under section 101 with respect to a nation shall remain in effect until such time as the Secretary of Commerce certifies to the President and the Congress that such nation has terminated large-scale driftnet fishing by its nationals and vessels beyond the exclusive economic zone of any nation.

SEC. 103. REQUIREMENTS UNDER MARINE MAMMAL PROTECTION ACT OF 1972.

Section 101(a)(2) of the Marine Mammal Protection Act of 1972 (16 U.S.C. 1371(a)(2) is amended—

(1) in subparagraph (E)(1) by striking "July 1, 1992" and inserting in lieu thereof "January 1, 1993"; and

(2) in the last sentence by inserting ", except that, until January 1, 1994, the term 'driftnet' does not include the use in the northeast Atlantic Ocean of gillnets with a total length not to exceed 5 kilometers if the use is in accordance with regulations adopted by the European Community pursuant to the October 28, 1991, decision by the Council of Fisheries Ministers of the Community" immediately after "(16 U.S.C. 1822 note)".

SEC. 104. DEFINITIONS.

In this title, the following definitions apply:

(1) FISH AND FISH PRODUCTS.—The term "fish and fish products" means any aquatic species (including marine mammals and plants) and all products thereof exported from a nation, whether or not taken by fishing vessels of that nation or packed, processed, or otherwise prepared for export in that nation or within the jurisdiction thereof.

(2) LARGE-SCALE DRIFTNET FISHING.—

(A) IN GENERAL.—Except as provided in subparagraph (B), the term "large-scale driftnet fishing" means a method of fishing in which a gillnet composed of a panel or panels of webbing, or a series of such gillnets, with a total length of two and one-half kilometers or more is placed in the water and allowed to drift with the currents and winds for the purpose of entangling fish in the webbing.

(B) EXCEPTION.—Until January 1, 1994, the term "large-scale driftnet fishing" does not include the use of the northeast Atlantic Ocean of gillnets with a total length not to exceed 5 kilometers if the use in accordance with regulations adopted by the European Community pursuant to the October 28, 1991, decision by the Council of Fisheries Ministers of the Community.

(3) LARGE-SCALE DRIFTNET FISHING VESSEL.—The term "large-scale driftnet fishing vessel" means any vessel which is—

(A) used for, equipped to be used for, or of a type which is normally used for large-scale driftnet fishing; or

(B) used for aiding or assisting one or more vessels at sea in the performance of large-scale driftnet fishing, including preparation, supply, storage, refrigeration, transportation, or processing.

TITLE II—FISHERIES CONSERVATION PROGRAMS

SEC. 201. IMPORT RESTRICTIONS UNDER FISHERMEN'S PROTECTIVE ACT OF 1967.

(a) PRODUCTS SUBJECT TO RESTRICTION.—Section 8 of the Fishermen's Protective Act of 1967 (22 U.S.C. 1978) is amended—

(1) in subsection (a)(4) by striking "fish products" and all that follows through "such duration", and inserting in lieu thereof "any products from the offending country for any duration";

(2) in subsection (c) by striking "fish products or wildlife products" and inserting in lieu thereof "products";

(3) in subsection (3)(2) by striking "fish products and wildlife products" and inserting in lieu thereof "products"; and

(4) in subsection (f)—

(A) in paragraph (1) by striking "fish products and wildlife products" and inserting in lieu thereof "products"; and

(B) in paragraph (5)—

(i) in the first sentence by striking "fish products and wildlife products" and inserting in lieu thereof "products"; and

(ii) in the second sentence by striking "Fish products and wildlife products" and inserting in lieu thereof "Products".

(b) DEFINITIONS.—Section 8(h) of the Fishermen's Protective Act of 1967 (22 U.S.C. 1978(h)) is amended—

(1) by amending paragraph (2) to read as follows:

"(2) The term 'United States' means the several States, the District of Columbia, Puerto Rico, the Northern Mariana Islands, American Samoa, Guam, the Virgin Islands, and every other territory and possession of the United States.";

(2) in paragraph (3)—

(A) by inserting "bilateral or" immediately before "multilateral"; and

(B) by inserting ", including marine mammals" immediately after "protect the living resources of the sea";

(3) by striking paragraphs (4) and (6);

(4) by redesignating paragraphs (5) and (7) as paragraphs (4) and (5), respectively; and

(5) by amending paragraph (5), as so redesignated, to read as follows:

"(5) The term 'taking', as used with respect to animals to which an international program endangered or threatened species applies, means to—

"(A) harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect; or

"(B) attempt to harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect.".

SEC. 202. ENFORCEMENT.

(a) IN GENERAL.—Not later than 6 months after the date of the enactment of this Act, the Secretary of the department in which

the Coast Guard is operating, the Secretary of Commerce, and the Secretary of Defense shall enter into an agreement under section 311(a) of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1861(a)) in order to make more effective the enforcement of domestic laws and international agreements that conserve and manage the living marine resources of the United States.

(b) TERMS.—The agreement entered into under subsection (a) shall include—

(1) procedures for identifying and providing the location of vessels that are in violation of domestic laws or international agreements to conserve and manage the living marine resources of the United States;

(2) requirements for the use of the surveillance capabilities of the Department of Defense; and

(3) procedures for communicating vessel locations to the Secretary of Commerce and the Coast Guard.

SEC. 203. TRADE NEGOTIATIONS AND THE ENVIRONMENT.

It is the sense of the Congress that the President, in carrying out multilateral, bilateral, and regional trade negotiations, should seek to—

(1) address environmental issues related to the negotiations;

(2) modify articles of the General Agreement on Tariffs and Trade (referred to in this section as "GATT") to take into consideration the national environmental laws of the GATT Contracting Parties and international environmental treaties;

(3) secure a working party on trade and the environment within GATT as soon as possible;

(4) take an active role in developing trade policies that make GATT more responsive to national and international environmental concerns;

(5) include Federal agencies with environmental expertise during the negotiations to determine the impact of the proposed trade agreements on national environmental law; and

(6) periodically consult with interested parties concerning the progress of the negotiations.

TITLE III—FISHERIES ENFORCEMENT IN CENTRAL BERING SEA

SEC. 301. SHORT TITLE.

This title may be cited as the "Central Bering Sea Fisheries Enforcement Act of 1992".

SEC. 302. PROHIBITION APPLICABLE TO UNITED STATES VESSELS AND NATIONALS.

(a) PROHIBITION.—Vessels and nationals of the United States are prohibited from conducting fishing operations in the Central Bering Sea, except where such fishing operations are conducted in accordance with an international fishery agreement to which the United States and the Russian Federation are parties.

(b) CIVIL PENALTIES AND PERMIT SANCTIONS.—A violation of this section shall be subject to civil penalties and permit sanctions under section 308 of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1858).

SEC. 303. PORT PRIVILEGES DENIAL FOR FISHING IN CENTRAL BERING SEA.

(a) DENIAL OF PORT PRIVILEGES.—The Secretary of the Treasury shall, after December 31, 1992, in accordance with recognized principles of international law—

(1) withhold or revoke the clearance required by section 4197 of the Revised Statutes of the United States (46 App. U.S.C. 91) for any fishing vessel documented under the laws of a nation that is included on a list published under subsection (b); and

(2) deny entry of such fishing vessel to any place in the United States and to the navigable waters of the United States.

(b) PUBLICATION OF LIST.—Not later than 45 days after the date of enactment of this Act, the Secretary of Commerce, in consultation with the Secretary of State and the Secretary of the department in which the Coast Guard is operating, shall publish in the Federal Register a list of nations whose nationals or vessels conduct fishing operations in the Central Bering Sea, except where such fishing operations are in accordance with an international fishery agreement to which the United States and the Russian Federation are parties. The Secretary shall publish as an addendum to the list the name of each vessel documented under the laws of each listed nation which conducts fishing operations in the Central Bering Sea. A revised list shall be published whenever the list is no longer accurate, except that a nation may not be removed from the list unless—

(1) the nationals and vessels of that nation have not conducted fishing operations in the Central Bering Sea for the previous 90 days and the nation has committed, through a bilateral agreement with the United States or in any other manner acceptable to the Secretary of Commerce, not to permit its nationals or vessels to resume such fishing operations; or

(2) the nationals and vessels of that nation are conducting fishing operations in the Central Bering Sea that are in accordance with an international fishery agreement to which the United States and the Russian Federation are parties.

(c) NOTIFICATION ON NATION.—Before the publication of a list of nations under subsection (b), the Secretary of State shall notify each nation included on that list and explain the requirement to deny the port privileges of fishing vessels of that nation under subsection (a) as a result of such publication.

SEC. 304. DURATION OF PORT PRIVILEGES DENIAL.

Any denial of port privileges under section 303 with respect to any fishing vessel of a nation shall remain in effect until such nation is no longer listed under section 303(b).

SEC. 305. RESTRICTION ON FISHING IN UNITED STATES EXCLUSIVE ECONOMIC ZONE.

(a) REGULATIONS.—Within 180 days after the date of enactment of this Act, after notice and public comment, the Secretary of Commerce shall issue regulations, under the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1801 et seq.) and any other applicable law, to prohibit—

(1) any permitted fishing vessel from catching, taking, or harvesting fish in a fishery under the geographical authority of the North Pacific Fishery Management Council if such vessel is owned or controlled by any person that also owns or controls a fishing vessel that is listed on the addendum under section 303(b);

(2) any processing facility from receiving any fish caught, taken, or harvested in a fishery under the geographical authority of the North Pacific Fishery Management Council if such facility is owned or controlled by any person that also owns or controls a fishing vessel that is listed on the addendum under section 303(b); and

(3) any permitted fishing vessel from delivering fish caught, taken, or harvested in a fishery under the geographic authority of the North Pacific Fishery Management Council to a processing facility that is owned or controlled by any person that also owns or controls a fishing vessel that is listed on the addendum under section 303(b).

(b) REQUIREMENT FOR SUBMISSION OF DOCUMENTS.—The Secretary of Commerce shall require under any regulations issued under subsection (a) the submission of any affidavits, financial statements, corporate agreements, and other documents that the Secretary of Commerce determines, after notice and public comment, are necessary to ensure that all vessels and processing facilities are in compliance with this section.

(c) APPEALS; DURATION OF PROHIBITIONS.—The regulations issued under subsection (a) shall—

(1) establish procedures for a person to appeal a decision to impose a prohibition under subsection (a) on a vessel or processing facility owned or controlled by that person; and

(2) specify procedures for the remvoal of any prohibition imposed on a vessel or processing facility under subsection (a)—

(A) upon publication of a revised list under section 303(b), and a revised addendum which does not include a fishing vessel owned or controlled by the person who also owns or controls the vessel or facility to which the prohibition applies; or

(B) on the date that is 90 days aftr such person terminates ownership and control in fishing vessels that are listed on the addendum under section 303(b).

SEC. 306. DEFINITIONS.

In this title, the following definitions apply:

(1) CENTRAL BERING SEA.—The term "Central Bering Sea" means the central Bering Sea area which is more than 200 nautical miles seaward of the baselines from which the breadth of the territorial seas of the United States and the Russian Federation are measured.

(2) FISHING VESSEL.—The term "fishing vessel" means any vessel which is used for—

(A) catching, taking, or harvesting fish; or

(B) aiding or assisting one or more vessels at sea in the performance of fishing operations, including preparation, supply, storage, refrigeration, transportation, or processing.

(3) OWNS OR CONTROLS.—When used in reference to a vessel or processing facility—

(A) the term "owns" means holding legal title to the vessel or processing facility; and

(B) the term "controls" includes an absolute right to direct the business of the person owning the vessel or processing facility, to limit the actions of or replace the chief executive officer (by whatever title), a majority of the board of directors, or any general partner (as applicable) of such person, to direct the transfer or operations of the vessel or processing facility, or otherwise to exercise authority over the business of such person, but the term does not include the right simply to participate in those activities of such person or the right to receive a financial return, such as interest or the equivalent of interest, on a loan or other financing obligation.

(4) PERMITTED FISHING VESSEL.—The term "permitted fishing vessel" means any fishing vessel that is subject to a permit issued by the Secretary of Commerce under the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1801 et seq.).

(5) PERSON.—The term "person" means any individual (whether or not a citizen of the United States), any corporation, partnership, association, cooperative, or other entity (whether or not organized under the laws of any State), and any State, local, or foreign government, or any entity of such government or the Federal Government.

(6) PROCESSING FACILITY.—The term "processing facility" means any fish processing establishment or fish processing vessel that receives unprocessed fish.

SEC. 307. TERMINATION.

This title shall cease to have force and effect after the date that is 7 years after the date of enactment of this Act, except that any proceeding with respect to violations of section 302 occurring prior to such termination date shall be conducted as if that section were still in effect.

TITLE IV—MISCELLANEOUS PROVISIONS

SEC. 401. INTERMEDIARY NATIONS INVOLVED IN EXPORT OF CERTAIN TUNA PRODUCTS.

(a) INTERMEDIARY NATION DEFINED.—Section 3 of the Marine Mammal Protection Act of 1972 (16 U.S.C. 1362) is amended by redesignating paragraphs (5) through (14) as paragraphs (6) through (15), respectively, and by inserting immediately after paragraph (4) the following new paragraph:

"(5) The term 'intermediary nation' means a nation that exports yellowfin tuna or yellowfin tuna products to the United States and that imports yellowfin tuna or yellowfin tuna products that are subject to a direct ban on importation into the United States pursuant to section 101(a)(2)(B).".

(b) EMGARGO ON IMPORTS FROM INTERMEDIARY NATIONS.—Section 101(a)(2)(C) of the Marine Mammal Protection Act of 1972 (16 U.S.C. 1371(a)(2)(C)) is amended to read as follows:

"(C) shall require the government of any intermediary nation to certify and provide reasonable proof to the Secretary that it has not imported, within the preceding six months, any yellowfin tuna or yellowfin tuna products that are subject to a direct ban on importation to the United States under subparagraph (B);".

SEC. 402. AUTHORITY TO EXTEND REEMPLOYMENT RIGHTS.

For purposes of employee rights and entitlements conferred by or pursuant to subchapter IV of chapter 35 of title 5, United States Code, the Secretary of State may, notwithstanding any other law or regulation, extend the reemployment rights of an employee of the United States who, as of January 1, 1992, was serving with the Intergovernmental Panel on Climate Change. Such extension may be made for 2 years, and may be further extended for 1 year, if the Secretary of State determines that such service is in the national interest and is necessary to facilitate the activities of the Intergovernmental Panel on Climate Change or any successor organization.

SEC. 403. LIMITATION OF TERMS OF VOTING MEMBERS OF REGIONAL FISHERY MANAGEMENT COUNCILS.

Section 302(b)(3) of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1852(b)(3)) is amended by striking "January 1, 1986" the second place it appears and inserting in lieu thereof "December 31, 1987".

SEC. 404. OBSERVER FEE FOR NORTH PACIFIC FISHERIES RESEARCH PLAN.

Section 313(b)(2)(E) of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1862(b)(2)(E)) is amended by striking "one percentum, of the" and inserting in lieu thereof "2 percent, of the unprocessed ex-vessel".

TITLE V—FEES

SEC. 501. RECREATIONAL BOAT TAX REPEAL.

(a) IN GENERAL.—

(1) SCOPE OF FEE.—Section 2110(b)(1) of title 46, United States Code, is amended—

(A) by striking "1991, 1992, 1993, 1994, and 1995", and inserting in lieu thereof "1993 and 1994"; and

(B) by striking "that is greater than 16 feet in length" and inserting in lieu thereof "to which paragraph (2) of this subsection applies".

(2) AMOUNT OF FEE.—Section 2110(b)(2) of title 46, United States Code, is amended to read as follows:

"(2) The fee or charge established under paragraph (1) of this subsection is as follows:

"(A) in fiscal year 1993—

"(i) for vessels of more than 21 feet in length but less than 27 feet, not more than $35;

"(ii) for vessels of at least 27 feet in length but less than 40 feet, not more than $50; and

"(iii) for vessels of at least 40 feet in length, not more than $100.

"(B) in fiscal year 1994—

"(i) for vessels of at least 37 feet in length but less than 40 feet, not more than $50; and

"(ii) for vessels of at least 40 feet in length, not more than $100.".

(b) EFFECTIVE DATE.—The amendments made by this section are effective October 1, 1992.

SEC. 502. AUTOMATED TARIFF FILING AND INFORMATION SYSTEM.

(a) DEFINITIONS.—In this section, the following definitions apply:

(1) COMMISSION.—The term "Commission" means the Federal Maritime Commission.

(2) COMMON CARRIER.—The term "common carrier" means a common carrier under section 3 of the Shipping Act of 1984 (46 App. U.S.C. 1702), a common carrier by water in interstate commerce under the Shipping Act, 1916 (46 App. U.S.C. 801 et seq.), or a common carrier by water in intercoastal commerce under the Intercoastal Shipping Act, 1933 (46 App. U.S.C. 843 et seq.).

(3) CONFERENCE.—The term "conference" has the meaning given that term under section 3 of the Shipping Act of 1984 (46 App. U.S.C. 1702).

(4) ESSENTIAL TERMS OF SERVICE CONTRACTS.—The term "essential terms of service contracts" means the essential terms that are required to be filed with the Commission and made available under section 8(c) of the Shipping Act of 1984 (46 App. U.S.C. 1707(c)).

(5) TARIFF.—The term "tariff" means a tariff of rates, charges, classifications, rules, and practices required to be filed by a common carrier or conference under section 8 of the Shipping Act of 1984 (46 App. U.S.C. 1707), or a rate, fare, charge, classification, rule, or regulation required to be filed by a common carrier or conference under the Shipping Act, 1916 (46 U.S.C. 801 et seq.), or the Intercoastal Shipping Act, 1933 (46 App. U.S.C. 843 et seq.).

(b) TARIFF FORM AND AVAILABILITY.—

(1) REQUIREMENT TO FILE.—Notwithstanding any other law, each common carrier and conference shall, in accordance with subsection (c), file electronically with the Commission all tariffs, and all essential terms of service contracts, required to be filed by that common carrier or conference under the Shipping Act of 1984 (46 App. U.S.C. 1701 et seq.), the Shipping Act, 1916 (46 App. U.S.C. 801 et seq.), and the Intercoastal Shipping Act, 1933 (46 App. U.S.C. 843 et seq.).

(2) AVAILABILITY OF INFORMATION.—The Commission shall make available electronically to any person, without time, quantity, or other limitation, both at the Commission headquarters and through appropriate access from remote terminals—

(A) all tariff information, and all essential terms of service contracts, filed in the Commission's Automated Tariff Filing and Information System database; and

(B) all tariff information in the System enhanced electronically by the Commission at any time.

(c) FILING SCHEDULE.—New tariffs and new essential terms of service contracts shall be filed electronically not later than July 1, 1992. All other tariffs, amendments to tariffs, and essential terms of service contracts shall be filed not later than September 1, 1992.

(d) FEES.—

(1) AMOUNT OF FEE.—The Commission shall charge, beginning July 1 of fiscal year 1992 and in fiscal years 1993, 1994, and 1995—

(A) a fee of 46 cents for each minute of remote computer access by any individual of the information available electronically under this section; and

(B)(i) for electronic copies of the Automated Tariff Filing and Information System database (in bulk), or any portion of the database, a fee reflecting the cost of providing those copies, including the cost of duplication, distribution, and user-dedicated equipment; and

(ii) for a person operating or maintaining information in a database that has multiple tariff or service contract information obtained directly or indirectly from the Commission, a fee of 46 cents for each minute that database is subsequently accessed by computer by any individual.

(2) EXEMPTION FOR FEDERAL AGENCIES.—A Federal agency is exempt from paying a fee under this subsection.

(e) ENFORCEMENT.—The Commission shall use systems controls or other appropriate methods to enforce subsection (d).

(f) PENALTIES.—

(1) CIVIL PENALTIES.—A person failing to pay a fee established under subsection (d) is liable to the United States Government for a civil penalty of not more than $5,000 for each violation.

(2) CRIMINAL PENALTIES.—A person that willfully fails to pay a fee established under subsection (d) commits a class A misdemeanor.

(g) AUTOMATIC FILING IMPLEMENTATION.—

(1) CERTIFICATION OF SOFTWARE.—Software that provides for the electronic filing of data in the Automated Tariff Filing and Information System shall be submitted to the Commission for Certification. Not later than 14 days after a person submits software to the Commission for certification, the Commission shall—

(A) certify the software if it provides for the electronic filing of data; and

(B) publish in the Federal Register notice of that certification.

(2) REPAYABLE ADVANCE.—

(A) AVAILABILITY AND USE OF ADVANCE.—Upon the date of enactment of this Act, the Secretary of the Treasury shall make available to the Commission, as a repayable advance, not more than $4,000,000, to remain available until expended. The Commission shall spend these funds to complete and upgrade the capacity of the Automated Tariff Filing and Information System to provide access to information under this section.

(B) REQUIREMENT TO REPAY.—

(i) IN GENERAL.—Any advance made to the Commission under subparagraph (A) shall be repaid, with interest, to the general fund of the Treasury not later than September 30, 1995.

(ii) INTEREST.—Interest on any advance made to the Commission under subparagraph (A)—

(I) shall be at a rate determined by the Secretary of the Treasury, as of the close of the calendar month preceding the month in which the advance is made, to be equal to

the current average market yield on outstanding marketable obligations of the United States with remaining periods to maturity comparable to the anticipated period during which the advance will be outstanding; and

(II) shall be compounded annually.

(3) USE OF RETAINED AMOUNTS.—Out of amounts collected by the Commission under this section, amounts shall be retained and expended by the Commission for each fiscal year, without fiscal year limitation, to carry out this section and pay back the Secretary of the Treasury for the advance made available under paragraph (2).

(4) DEPOSIT IN TREASURY.—Except for the amounts retained by the Commission under paragraph (3), fees collected under this section shall be deposited in the general fund of the Treasury as offsetting receipts.

(h) RESTRICTION.—No fee may be collected under this section after fiscal year 1995.

(i) CONFORMING AMENDMENT.—Section 2 of the Act of August 16, 1989 (46 App. U.S.C. 1111c), is repealed.

NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION AUTHORIZATION ACT

KERRY (AND OTHERS) AMENDMENT NO. 2944

Mr. MITCHELL (for Mr. KERRY, for himself, Mr. STEVENS, and Mr. HOLLINGS) proposed an amendment to the bill (S. 1405) to authorize appropriations for certain programs and functions of the National Oceanic and Atmospheric Administration, and for other purposes; as follows:

Strike all after the enacting clause and insert in lieu thereof the following:

SHORT TITLE

SECTION 1. This Act may be cited as the "National Oceanic and Atmospheric Administration Authorization Act of 1992".

DEFINITIONS

SEC. 2. For the purposes of this Act, the term—

(1) "Act of 1890" means the Act entitled "An Act to increase the efficiency and reduce the expenses of the Signal Corps of the Army, and to transfer the Weather Bureau to the Department of Agriculture", approved October 1, 1890 (26 Stat. 653); and

(2) "Act of 1947" means the Act entitled "An Act to define the functions and duties of the Coast and Geodetic Survey, and for other purposes", approved August 6, 1947 (33 U.S.C. 883a et seq.).

TITLE I—NOAA ATMOSPHERIC AND SATELLITE PROGRAMS

NATIONAL WEATHER SERVICE OPERATIONS AND RESEARCH

SEC. 101. (a) IN GENERAL.—There are authorized to be appropriated to the Secretary of Commerce, to enable the National Oceanic and Atmospheric Administration to carry out the operations and research activities of the National Weather Service under law, $311,532,000 for fiscal year 1992 and $382,236,000 for fiscal year 1993. Moneys appropriated pursuant to this authorization shall be used to fund those activities relating to National Weather Service operations and research specified by the Act of 1890, the Act of 1947, and any other law involving such activities. Such activities include meteorological, hydrological, and oceanographic public warnings and forecasts, as well as applied research in support of such warnings and forecasts.

(b) PACIFIC WEATHER BUOYS.—Of the sums authorized under subsection (a), $840,000 for fiscal year 1992 and $1,135,000 for fiscal year 1993 are authorized to be appropriated for the purpose of operating and maintaining weather buoys off the coast of California, Oregon, Washington, and Hawaii.

PUBLIC WARNING AND FORECAST SYSTEMS

SEC. 102. There are authorized to be appropriated to the Secretary of Commerce, to enable the National Oceanic and Atmospheric Administration to improve its public warning and forecast systems under law, $132,034,000 for fiscal year 1992 and $135,342,000 for fiscal year 1993. Moneys appropriated pursuant to this authorization shall be used to fund those activities relating to public warning and forecast systems specified by the Act of 1890, the Act of 1947, and any other law involving such activities. Such activities include the development, acquisition, and implementation of major public warning and forecast systems.

CLIMATE AND AIR QUALITY RESEARCH

SEC. 103. (a) IN GENERAL.—There are authorized to be appropriated to the Secretary of Commerce, to enable the National Oceanic and Atmospheric Administration to carry out its climate and air quality research activities under law, $111,718,000 for fiscal year 1992 and $115,128,000 for fiscal year 1993. Moneys appropriated pursuant to this authorization shall be used to fund those activities relating to climate and air quality research specified by the Act of 1890, the Act of 1947, and any other law involving such activities. Such activities include the interannual and seasonal climate research, long-term climate and air quality research, and the National Climate Program.

(b) CLIMATE AND GLOBAL CHANGE.—Of the sums authorized under subsection (a), $78,000,000 for fiscal year 1992 and $78,251,000 for fiscal year 1993 are authorized to be appropriated for the purposes of studying climate and global change. Such program shall augment and integrate existing programs of the National Oceanic and Atmospheric Administration and shall include global observations, monitoring, and data and information management relating to the study of changes in the Earth's climatic system, fundamental research on critical oceanic and atmospheric processes, and climate prediction and diagnostics.

ATMOSPHERIC RESEARCH

SEC. 104. There are authorized to be appropriated to be Secretary of Commerce, to enable the National Oceanic and Atmospheric Administration to carry out its atmospheric research activities under law, $43,935,000 for fiscal year 1992 and $44,781,000 for fiscal year 1993. Moneys appropriated pursuant to this authorization shall be used to fund those activities relating to atmospheric research specified by the Act of 1890 and by any other law involving such activities. Such activities include research for developing improved observation and prediction capabilities for atmospheric processes, as well as solar-terrestrial services and research.

SATELLITE OBSERVING SYSTEMS

SEC. 105. (a) IN GENERAL.—(1) There are authorized to be appropriated to the Secretary of Commerce, to enable the National Oceanic and Atmospheric Administration to carry out its satellite observing systems activities under law, $305,744,000 for fiscal year 1992 and $398,692,000 for fiscal year 1993. Moneys appropriated pursuant to this authorization shall be used to fund those activities relating to data and information services specified by the Act of 1890 and by any other law involving such activities. Such activities include spacecraft procurement, launch, and associated ground station modifications for polar orbiting and geostationary environmental satellite systems, as well as the operation of such satellites and land remote-sensing satellites.

(2) Of the sum authorized under paragraph (1), $2,300,000 in fiscal year 1993 are authorized for the administration by the National Oceanic and Atmospheric Administration of the ground stations for the Search and Rescue Satellite Aided Tracking system. Such administration shall be carried out in consultation with the Department of Transportation and the Department of Defense.

(b) EMERGENCY CONTINGENCY FUND.—There are authorized to be appropriated to the Secretary of Commerce, $110,000,000 for fiscal year 1992, to be deposited in an Emergency Weather Satellite Contingency Fund. Such Fund shall be available subject to the restrictions of appropriations Acts, without fiscal year limitation, to the Secretary only for the purpose of enabling the National Oceanic and Atmospheric Administration to maintain geostationary environmental satellite coverage for monitoring and prediction of hurricanes and severe storms, including but not limited to the procurement of gap filler satellites, launch vehicles, and payments to foreign governments.

(c) STRATEGIC PLAN.—(1) The Secretary of Commerce and the Administrator of the National Aeronautics and Space Administration shall jointly develop and, not more than 120 days after the date of enactment of this Act, submit to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Science, Space, and Technology of the House of Representatives a strategic plan for development, procurement, and operation of the environmental satellite program of the Department of Commerce.

(2) The objectives of the strategic plan shall be—

(A) to ensure continuous and adequate operational environmental satellite coverage; and

(B) to require direct Federal fiscal and administrative accountability in all aspects of such environmental satellite program.

(3) The strategic plan shall—

(A) delineate the management duties and functions of each Federal department or agency involved in such satellite program;

(B) establish funding responsibilities for each Federal department or agency in a manner which reflects their respective management duties and functions;

(C) set forth procedures to be followed in the development, procurement, and operations of environmental satellites in such program;

(D) minimize the potential for developmental and procurement problems, and for cost overruns;

(E) provide for effective interagency and international coordination;

(F) provide for research and development activities to ensure that the procurement of operational environmental satellites relies on proven technologies, and to investigate potential improvements in data applications and operations for such satellites in order to improve the national weather warning and forecast system; and

(G) specify legislative and administrative actions necessary to implement the plan and

to accomplish the objectives described in paragraph (2).

DATA AND INFORMATION SYSTEMS

SEC. 106. (a) IN GENERAL.—There are authorized to be appropriated to the Secretary of Commerce, to enable the National Oceanic and Atmospheric Administration to carry out its data and information services activities under law, $32,628,000 for fiscal year 1992 and $44,028,000 for fiscal year 1993. Moneys appropriated pursuant to this authorization shall be used to fund those activities relating to data and information services specified by the Act of 1890 and by any other law involving such activities. Such activities include climate data services, ocean data services, geophysical data services, and environmental assessment and information services.

(b) MODERIZATION INITIATIVE.—Of the sums authorized under subsection (a), $10,000,000 in fiscal year 1992 and $20,000,000 in fiscal year 1993 are authorized to be appropriated for the purpose of modernizing the data and information systems of the National Oceanic and Atmospheric Administration to meet increasing requirements for managing, archiving, and distributing environmental data and information.

(c) NEEDS ASSESSMENT FOR DATA MANAGEMENT, ARCHIVAL, AND DISTRIBUTION.—(1) Not later than 12 months after the date of enactment of this Act and at least biennially thereafter, the Secretary of Commerce shall complete an assessment of the adequacy of the environmental data and information systems of the National Oceanic and Atmospheric Administration. In conducting such an assessment, the Secretary shall take into consideration the need to—

(A) provide adequate capacity to manage, archive, and disseminate environmental data and information collected and processed, or expected to be collected and processed, by the National Oceanic and Atmospheric Administration and other appropriate departments and agencies;

(B) establish, develop, and maintain information bases, including necessary management systems, which will promote consistent, efficient, and compatible transfer and use of data;

(C) develop effective interfaces among the environmental data and information systems of the National Oceanic and Atmospheric Administration and other appropriate departments and agencies;

(D) develop and use nationally accepted formats and standards for data collected by various national and international sources; and

(E) integrate and interpret data from different sources to produce information that can be used by decisionmakers in developing policies that effectively respond to national and global environmental concerns.

(2) Not later than 12 months after the date of enactment of this Act and biennially thereafter, the Secretary of Commerce shall develop and submit to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Science, Space, and Technology of the House of Representatives a comprehensive plan, based on the assessment under paragraph (1), to modernize and improve the environmental data and information systems of the National Oceanic and Atmospheric Administration. The report shall—

(A) set forth modernization and improvement objectives for the 10-year period beginning with the year in which the plan is submitted, including facility requirements and critical new technological components that would be necessary to meet the objectives set forth;

(B) propose specific agency programs and activities for implementing the plan;

(C) identify the data and information management, archival, and distribution responsibilities of the National Oceanic and Atmospheric Administration with respect to other Federal departments and agencies and international organizations, including the role of the National Oceanic and Atmospheric Administration with respect to large data systems like the Earth Observing System Data and Information System; and

(D) provide an implementation schedule and estimate funding levels resources necessary to achieve modernization and improvement objectives.

HURRICANE RECONNAISSANCE PROGRAM

SEC. 107. (a) ESTABLISHMENT OF PROGRAM.—The Secretary of Defense and the Secretary of Commerce shall establish a 5-year joint program for collecting operational and reconnaissance data, conducting research, and analyzing data on tropical cyclones to assist the forecast and warning program and increase the understanding of the causes and behavior of tropical cyclones.

(b) RESPONSIBILITIES.—(1) The Secretary of Defense shall have the responsibility for maintaining, flying, and funding tropical cyclone reconnaissance aircraft to accomplish the program established under this section and to transfer the data to the Secretary of Commerce, unless a joint agreement is reached, with the approval of both the Secretary of Defense and the Secretary of Commerce, for the transfer of such responsibility (including full funding) to an appropriate Federal agency or department which may include the Coast Guard.

(2) The Secretary of Commerce shall have the responsibility to provide funding for data gathering and research by remote sensing, ground sensing, research aircraft, and other technologies necessary to accomplish the program established under this section.

(c) MANAGEMENT PLANS.—(1) The Secretary of Defense and the Secretary of Commerce shall jointly develop and, within 120 days after the date of enactment of this Act, submit to the Congress a management plan for the program established under this section, which shall include organizational structure, goals, major tasks, and funding profiles for the 5-year duration of the program.

(2) The Secretary of Defense and the Secretary of Commerce shall jointly develop and, within 4 years after the date of enactment of this Act, submit to the Congress a management plan providing for continued tropical cyclone surveillance and reconnaissance which will adequately protect the citizens of the coastal areas of the United States.

(3) The management plans and programs required by this section shall in every sense provide for at least the same degree and quality of protection (such as early warning capability and accuracy of fixing a storm's location) as currently exists with a combination of satellite technology and manned reconnaissance flights. Additionally, such plans and programs shall in no way allow any reduction in the level, quality, timeliness, sustainability (in terms of quantity and quality of aircraft, flying hours, crews, and support personnel), or area served (including the State of Hawaii) of both the existing principal and back-up tropical cyclone reconnaissance and tracking systems.

UNITED STATES WEATHER RESEARCH PROGRAM

SEC. 108. (a) ESTABLISHMENT.—The Secretary of Commerce, in cooperation with the Committee on Earth and Environmental Sciences, shall establish a United States Weather Research Program to—

(1) increase benefits to the Nation from the substantial investment in modernizing the public weather warning and forecast system in the United States;

(2) improve local and regional weather forecasts and warnings;

(3) address critical weather-related scientific issues; and

(4) coordinate governmental, university, and private-sector efforts.

(b) IMPLEMENTATION PLAN.—Not later than 90 days after the date of enactment of this Act, the Secretary of Commerce, in cooperation with the Committee on Earth and Environmental Sciences, shall prepare and submit to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Science, Space, and Technology of the House of Representatives a plan for implementation of the United States Weather Research Program which shall—

(1) establish, for the 10-year period beginning in the year the plan is submitted, the goals and priorities for Federal weather research which most effectively advance the scientific understanding of weather processes and provide information to improve weather warning and forecast systems in the United States;

(2) describe specific activities, including research activities, data collection and data analysis requirements, predictive modeling, participation in international research efforts, demonstration of potential operational forecast applications, and education and training required to achieve such goals and priorities; and

(3) set forth the role of each Federal agency and department to be involved in the United States Weather Research Program, identifying and addressing, as appropriate, relevant programs and activities of the Federal agencies and departments that would contribute to such Program.

WEATHER SERVICE OFFICE IN RENO, NEVADA

SEC. 109. (a) FACILITY ACQUISITION.—The Administrator of the National Oceanic and Atmospheric Administration is authorized—

(1) to construct, on approximately 10 acres of land to be leased from the University of Nevada System, Desert Research Institute, or

(2) in the alternative, to acquire by lease construction on such land, with a lease term of up to 30 years,

a Weather Forecast Office, upper air facility, regional climate center, and associated instruments and site improvements as part of the implementation of the Next Generation Weather Radar and National Weather Service Modernization Program for the Reno, Nevada area.

(b) REIMBURSEMENT AUTHORITY.—The Administrator is authorized to reimburse the Desert Research Institute for the cost of providing utilities and access to the site.

(c) OPERATIONS.—The Administrator is authorized to carry out the operations of the National Oceanic and Atmospheric Administration in such facility.

WEATHER SERVICE FACILITIES IN SOUTH FLORIDA

SEC. 110. (a) CONSTRUCTION OF FACILITY.—The Administrator of the National Oceanic and Atmospheric Administration is authorized to construct, on land to be leased from Florida International University at the University's Tamiami campus, a facility for the National Hurricane Center, a Weather Forecast Office, an upper air facility, and associ-

ated site improvements as part of the implementation of the Next Generation Weather Radar and National Weather Service Modernization Program for the South Florida area.

(B) OPERATIONS.—The Administrator is authorized to carry out the operations of the National Oceanic and Atmospheric Administration in such facility.

WEATHER FORECAST OFFICE, HONOLULU

SEC. 111. (a) FACILITY ACQUISITION.—(1) The Administrator of the National Oceanic and Atmospheric Administration is authorized to lease building and associated space from the University of Hawaii, Honolulu, for the operation of a Weather Forecast Office, as part of the implementation of the Next Generation Weather Radar and National Weather Service Modernization Program for the State of Hawaii, for a term of up to 20 years.

(2) Rental costs for the space leased under paragraph (1) shall not exceed fair annual rental value as established by governmental appraisal.

(b) ALTERATIONS.—The Administrator is authorized to expend funds to make all necessary alterations to the space to allow for operation of a Weather Forecast Office.

(c) OPERATIONS.—The Administrator is authorized to carry out the operations of the National Oceanic and Atmospheric Administration in such facility.

INSTITUTE FOR AVIATION WEATHER PREDICTION

SEC. 112. The Administrator of the National Oceanic and Atmospheric Administration shall establish an Institute for Aviation Weather Prediction. The Institute shall provide forecasts, weather warnings, and other weather services to the United States aviation community. The Institute shall expand upon the activities of the aviation unit currently at the National Severe Storms Center in Kansas City, Missouri, and shall be established and remain in the Kansas City, Missouri area. The Administrator shall provide a full and fair opportunity for employees at the National Severe Storms Center to assume comparable duties and responsibilities within the Institute.

WEATHER SERVICE OFFICE IN OKLAHOMA

SEC. 113.(a) FACILITY ACQUISITION.—(1) The Administrator of the National Oceanic and Atmospheric Administration is authorized to lease building and associated space to be constructed by the University of Oklahoma, Norman, for the operation of the National Severe Storms Laboratory, Weather Forecast Office, NEXRAD Operational Support Facility, and National Institute for Storm Prediction as part of the implementation of the Next Generation Weather Radar and National Weather Service Modernization Program, for a term of up to 20 years.

(2) Rental costs for the space leased under paragraph (1) shall not exceed fair annual rental value as established by governmental appraisal.

(b) ALTERATIONS.—The Administrator is authorized to expend funds to make all necessary alterations to the space to allow for operations listed in subsection (a)(1).

(c) OPERATIONS.—The Administrator is authorized to carry out the operations of the National Oceanic and Atmospheric Administration in such facility.

TRANSFER OF DATA ARCHIVING RESPONSIBILITY

SEC. 114.(a) FINDINGS.—The Congress finds that—

(1) section 602 of the Land Remote-Sensing Commercialization Act of 1984 (15 U.S.C. 4272) directs the Secretary of Commerce to provide for the archiving of land remote-sensing data for historical, scientific, and technical purposes, including long-term global environmental monitoring;

(2) the Secretary of Commerce currently provides for the archiving of Landsat data at the Department of the Interior's EROS Data Center, which is consistent with the requirement of section 602(g) of such Act (15 U.S.C. 4272(g)) to use existing Federal Government facilities to the extent practicable in carrying out this archiving responsibility;

(3) the Landsat data collected since 1972 are an important global data set for monitoring and assessing land resources and global change;

(4) the Secretary of the Interior maintains archives of aerial photography, digital cartographic data, and other Earth science data at the EROS Data Center that also are important data sets for monitoring and assessing land resources and global change;

(5) it is appropriate to transfer authority to the Secretary of the Interior for the archiving of land remote-sensing data; and

(6) the Secretary of the Interior should explore ways to facilitate the use of archived data for research purposes consistent with other provisions of the Land Remote-Sensing Commercialization Act of 1984.

(b) PROVISION OF UNENHANCED DATA.—Section 402(b)(4) of the Land Remote-Sensing Commercialization Act of 1984 (15 U.S.C. 4242(b)(4)) is amended by inserting "of the Interior" immediately after "Secretary".

(c) ARCHIVING OF DATA.—Section 602 of the Land Remote-Sensing Commercialization Act of 1984 (15 U.S.C. 4272) is amended—

(1) in subsections (b), (c), (d), (f), and (g), by inserting "of the Interior" immediately after "Secretary" each place it appears; and

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

"(h) In carrying out the functions of this section, the Secretary of the Interior shall consult with the Secretary to ensure that archiving activities are consistent with the terms and conditions of any contract or agreement entered into under title II, III, or V of this Act and with any license issued under title IV of this Act.".

TITLE II—NOAA OCEAN AND COASTAL PROGRAMS

NATIONAL OCEAN SERVICE

SEC. 201. (a) MAPPING, CHARTING, AND GEODESY.—There are authorized to be appropriated to the Secretary of Commerce, to enable the National Oceanic and Atmospheric Administration to carry out mapping, charting, and geodesy activities (including geodetic data collection and analysis) under the Act of 1947 and any other law involving those activities, $50,917,000 for fiscal year 1992 and $51,087,000 for fiscal year 1993.

(b) OBSERVATION AND ASSESSMENT.—There are authorized to be appropriated to the Secretary of Commerce, to enable the National Oceanic and Atmospheric Administration to carry out observation and assessment activities—

(1) under the Act of 1947 and any other law involving those activities, $57,273,000 for fiscal year 1992 and $57,273,000 for fiscal year 1993;

(2) under the National Ocean Pollution Planning Act of 1978 (33 U.S.C. 1701 et seq.), $4,500,000 for fiscal year 1992 and $4,500,000 for fiscal year 1993; and

(3) under title II of the Marine Protection, Research, and Sanctuaries Act of 1972 (33 U.S.C. 1441 et seq.), $11,000,000 for fiscal year 1992 and $11,000,000 for fiscal year 1993.

(c) COASTAL OCEAN PROGRAM.—Of the sums authorized under subsection (b)(1), $17,352,000 for each of the fiscal years 1992 and 1993 are authorized to be appropriated for the purposes of conducting a Coastal Ocean Program. Such program shall augment and integrate existing programs of the National Oceanic and Atmospheric Administration and shall include efforts to improve predictions of fish stocks to better conserve and manage living marine resources, to improve predictions of coastal ocean pollution to help correct and prevent degradation, to promote development of ocean technology to support the effort of science to understand and characterize the role oceans play in global climate and environmental analysis, and to improve predictions of coastal hazards to protect human life and personal property.

(d) OCEAN MANAGEMENT.—There are authorized to be appropriated to the Secretary of Commerce, to enable the National Oceanic and Atmospheric Administration to carry out ocean management activities, $1,678,000 for fiscal year 1992 and $1,823,000 for fiscal year 1993.

OCEAN AND GREAT LAKES RESEARCH

SEC. 202. There are authorized to be appropriated to the Secretary of Commerce, to enable the National Oceanic and Atmospheric Administration to carry out ocean and Great Lakes research activities under the Act of 1947, the Act of 1890, and any other law involving those activities, $32,171,000 for fiscal year 1992 and $39,800,000 for fiscal year 1993.

TITLE III—NOAA MARINE FISHERY PROGRAMS

AUTHORIZATION OF APPROPRIATIONS

SEC. 301. The National Oceanic and Atmospheric Administration Marine Fisheries Program Authorization Act (Public Law 98-210; 97 Stat. 1409) is amended—

(1) in section 2(a) by striking "26,500,000" and all that follows through "fiscal year 1989" and inserting in lieu thereof "$47,933,000 for fiscal year 1992 and $59,162,000 for fiscal year 1993";

(2) in section 3(a) by striking "$35,000,000" the first time it appears and all that follows through "fiscal year 1989" and inserting in lieu thereof "$27,290,000 for fiscal year 1992 and $35,594,000 for fiscal year 1993"; and

(3) in section 4(a) by striking "$10,000,000" and all that follows through "fiscal year 1989" and inserting in lieu thereof "$12,182,000 for fiscal year 1992 and $18,838,000 for fiscal year 1993".

DEVELOPMENT OF DOLPHIN-SAFE METHODS OF TUNA FISHING

SEC. 302. Section 2 of the National Oceanic and Atmospheric Administration Marine Fisheries Program Authorization Act (Public Law 98-210; 97 Stat. 1409) is amended by adding at the end the following new subsection:

"(d) Of the sums authorized under subsection (a) of this section, $1,000,000 for each of the fiscal years 1992 and 1993 are authorized to be appropriated for the purpose of developing dolphin-safe methods of locating and catching yellowfin tuna. Such authorization shall be in addition to moneys authorized under section 7 of the Act entitled 'An Act to improve the operation of the Marine Mammal Protection Act of 1972, and for other purposes', approved October 9, 1981 (16 U.S.C. 1384). Within six months after the date of enactment of this subsection, the Secretary, in cooperation with the Inter-American Tropical Tuna Commission and after consultation with interested persons, shall publish a program plan for public comment that shall provide for—

"(1) cooperative research to improve understanding of the behavioral association of dolphins and yellowfin tuna in the eastern tropical Pacific Ocean;

"(2) development, testing, and implementation of new methods of locating and catching yellowfin tuna without the incidental taking of dolphins; and

"(3) appropriate measures to ensure program participation and sharing of associated costs by each foreign government that conducts, or authorizes its nationals to conduct, yellowfin tuna fishing in the eastern tropical Pacific Ocean.".

FISHERIES RESEARCH

SEC. 303. Section 304(e) of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1854(e)) is amended by redesignating paragraphs (1), (2), and (3), and any reference thereto, as paragraphs (2), (3), and (4), respectively, and by inserting immediately after "FISHERIES RESEARCH.—" the following: "(1) The Secretary shall initiate and maintain, in cooperation with the Councils, a comprehensive program of fishery research to carry out and further the purposes, policy, and provisions of this Act. Such program shall be designed to acquire knowledge and information, including statistics, on fishery conservation and management and on the economics of the fisheries.".

FISHERY FACILITIES

SEC. 304. Section 1101(k) of the Merchant Marine Act, 1936 (46 App. U.S.C. 1271(k)), is amended—

(1) by striking "or" at the end of paragraph (1);

(2) by adding "or" at the end of paragraph (2); and

(3) by inserting immediately after paragraph (2) the following new paragraph:

"(3) for agriculture, including operations on land or elsewhere—

"(A) Any structure or appurtenance thereto designed for aquaculture;

"(B) the land necessary for any such structure or appurtenance described in subparagraph (A);

"(C) equipment which is for use in connection with any such structure or appurtenance and which is necessary for the performance of any function referred to in subparagraph (A); and

"(D) any vessel built in the United States used for, equipped to be used for, or of a type which is normally used for aquaculture;".

STUDY OF JOINT ENFORCEMENT OF FISHERIES REGULATIONS

SEC. 305. Not later than 4 months after the date of enactment of this Act, the Secretary of Transportation and the Secretary of Commerce shall submit to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Merchant Marine and Fisheries of the House of Representatives a joint report describing methods by which Coast Guard enforcement efforts in the western Pacific Ocean under the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1801 et seq.) may be enhanced and coordinated with those of the National Oceanic and Atmospheric Administration. The report shall—

(1) evaluate the ability of the Coast Guard to address key enforcement problems, which the Secretary of Commerce shall identify, for the western Pacific Ocean, particularly in the exclusive economic zone adjacent to the Hawaiian Islands, the northern Mariana Islands, and the territories and possessions of the United States;

(2) propose procedures by which the Coast Guard and the National Oceanic and Atmospheric Administration may coordinate their efforts in order to improve and maximize effective enforcement of fisheries regulations, including but not limited to the chartering of light aircraft for fisheries surveillance and enforcement; and

(3) recommend appropriate levels of Coast Guard participation in such efforts.

CHESAPEAKE BAY ESTUARINE RESOURCES OFFICE

SEC. 306. (a) ESTABLISHMENT—(1) The Secretary of Commerce shall establish, within the National Oceanic and Atmospheric Administration, an office to be known as the Chesapeake Bay Estuarine Resources Office (hereinafter referred to as the "Office").

(2) The Office shall be headed by a Director who shall be appointed by the Secretary of Commerce, in consultation with the Chesapeake Bay Executive Council. Any individual appointed as Director shall have knowledge and experience in research or resource management efforts in the Chesapeake Bay.

(3) The Director may appoint such additional personnel for the Office as the Director determines necessary to carry out this section.

(b) FUNCTIONS.—The Office, in consultation with the Chesapeake Bay Executive Council, shall—

(1) provide technical assistance to the Administrator, to other Federal departments and agencies, and to State and local government agencies in—

(A) assessing the processes that shape the Chesapeake Bay system and affect its living resources;

(B) identifying technical and management alternatives for the restoration and protection of living resources and the habitats they depend upon; and

(C) monitoring the implementation and effectiveness of management plans;

(2) develop and implement a strategy for the National Oceanic and Atmospheric Administration that integrates the science, research, monitoring, data collection, regulatory, and management responsibilities of the Secretary of Commerce in such a manner as to assist the cooperative, intergovernmental Chesapeake Bay Program to meet the commitments of the Chesapeake Bay Agreement;

(3) coordinate the programs and activities of the various organizations within the National Oceanic and Atmospheric Administration and the Chesapeake Bay Regional Sea Grant Programs (including programs and activities in coastal and estuarine research, monitoring, and assessment; fisheries research and stock assessments; data management; remote sensing; coastal management; and habitat conservation);

(4) coordinate the activities of the National Oceanic and Atmospheric Administration with the activities of the Environmental Protection Agency and other Federal, State, and local agencies;

(5) establish an effective mechanism which shall ensure that projects have undergone appropriate peer review and provide other appropriate means to determine that projects have acceptable scientific and technical merit for the purpose of achieving maximum utilization of available funds and resources to benefit the Chesapeake Bay area;

(6) remain cognizant of ongoing research, monitoring, and management projects and assist in the dissemination of the results and findings of those projects; and

(7) submit a biennial report to the Congress and the Secretary of Commerce with respect to the activities of the Office and on the progress made in protecting and restoring the living resources and habitat of the Chesapeake Bay.

(c) BUDGET LINE ITEM.—The Secretary of Commerce shall identify, in the President's annual budget to the Congress, the funding request for the Office.

(d) AUTHORIZATION OF APPROPRIATIONS.—Section 2 of the National Oceanic and Atmospheric Administration Marine Fisheries Program Authorization Act (Public Law 98-210; 97 Stat. 1409), as amended by section 302 of this Act, is further amended by adding at the end the following new subsection:

"(e) Of the sums authorized under subsection (a) of this section, no more than $2,500,000 are authorized to be appropriated for each of the fiscal years 1992 and 1993 to enable the National Oceanic and Atmospheric Administration to establish the Chesapeake Bay Estuarine Resources Office under section 306 of the National Oceanic and Atmospheric Administration Authorization act of 1991. No more than 20 percent of the amount appropriated under the authorization in this subsection shall be used for administrative purposes.".

NATIONAL SHELLFISH INDICATOR PROGRAM

SEC. 307. (a) ESTABLISHMENT OF A RESEARCH PROGRAM.—The Secretary of Commerce, in cooperation with the Secretary of Health and Human Services and the Administrator of the Environmental Protection Agency, shall establish and administer a 5-year national shellfish research program (hereafter in this section referred to as the "Program") for the purpose of improving existing classification systems for shellfish growing waters using the latest technological advancements in microbiology and epidemiological methods. Within 12 months after the date of enactment of this Act, the Secretary of Commerce, in cooperation with the advisory committee established under subsection (b) and the Consortium, shall develop a comprehensive 5-year plan for the Program which shall at a minimum provide for—

(1) an environmental assessment of commercial shellfish growing areas in the United States, including an evaluation of the relationships between indicators of fecal contamination and human enteric pathogens;

(2) the evaluation of such relationships with respect to potential health hazards associated with human consumption of shellfish;

(3) a comparison of the current microbiological methods used for evaluating indicator bacteria and human enteric pathogens in shellfish and shellfish growing waters with new technological methods designed for this purpose;

(4) the evaluation of current and projected systems for human sewage treatment in eliminating viruses and other human enteric pathogens which accumulate in shellfish;

(5) the design of epidemiological studies to relate microbiological data, sanitary survey data, and human shellfish consumption data to actual hazards to health associated with such consumption; and

(6) recommendations for revising Federal shellfish standards and improving the capabilities of Federal and State agencies to effectively manage shellfish and ensure the safety of shellfish intended for human consumption.

(b) ADVISORY COMMITTEE.—(1) For the purpose of providing oversight of the Program on a continuing basis, an advisory committee (hereafter in this section referred to as the "Committee") shall be established under a memorandum of understanding between the Interstate Shellfish Sanitation Conference and the National Marine Fisheries Service.

(2) The Committee shall—

(A) identify priorities for achieving the purpose of the Program;

(B) review and recommend approval or disapproval of Program work plans and plans of operation;

(C) review and comment on all subcontracts and grants to be awarded under the Program;

(D) receive and review progress reports from the Consortium and Program subcontractors and grantees; and

(E) provide such other advice on the Program as is appropriate.

(3) The Committee shall consist of at least ten members and shall include—

(A) three members representing agencies having authority under State law to regulate the shellfish industry, of whom one shall represent each of the Atlantic, Pacific, and Gulf of Mexico shellfish growing regions;

(B) three members representing persons engaged in the shellfish industry in the Atlantic, Pacific, and Gulf of Mexico shellfish growing regions (who shall be appointed from among at least six recommendations by the industry members of the Interstate Shellfish Sanitation Conference Executive Board), of whom one shall represent the shellfish industry in each region;

(C) three members, of whom one shall represent each of the following Federal agencies: the National Oceanic and Atmospheric Administration, the Environmental Protection Agency, and the Food and Drug Administration; and

(D) one member representing the Shellfish Institute of North America.

(4) The Chairman of the Committee shall be selected from among the Committee members described in paragraph (3)(A).

(5) The Committee shall establish and maintain a subcommittee of scientific experts to provide advice, assistance, and information relevant to research funded under the Program, except that no individual who is awarded, or whose application is being considered for, a grant or subcontract under the Program may serve on such subcommittee. The membership of the subcommittee shall, to the extent practicable, be regionally balanced with experts who have scientific knowledge concerning each of the Atlantic, Pacific, and Gulf of Mexico growing regions. Scientists from the National Academy of Sciences and appropriate Federal agencies (including the National Oceanic and Atmospheric Administration, Food and Drug Administration, Centers for Disease Control, National Institutes of Health, Environmental Protection Agency, and National Science Foundation) shall be considered for membership on the subcommittee.

(6) Members of the Committee and its scientific subcommittee established under this subsection shall not be paid for serving on the Committee or subcommittee, but shall receive travel expenses as authorized by section 5703 of title 5, United States Code.

(c) CONTRACT WITH CONSORTIUM.—Within 30 days after the date of enactment of this Act, the Secretary of Commerce shall seek to enter into a cooperative agreement or contract with the Consortium under which the Consortium will—

(1) be the academic administrative organization and fiscal agent for the Program;

(2) award and administer such grants and subcontracts as are approved by the Committee under subsection (b);

(3) develop and implement a scientific peer review process for evaluating grant and subcontractor applications prior to review by the Committee;

(4) in cooperation with the Secretary of Commerce and the Committee, procure the services of a scientific project director;

(5) develop and submit budgets, progress reports, work plans, and plans of operation for the Program to the Secretary of Commerce and the Committee; and

(6) make available to the Committee such staff, information, and assistance as the Committee may reasonably require to carry out its activities.

(d) REPORTING REQUIREMENTS.—Within 3 months after the date of enactment of this Act and within each of the next three consecutive 3-month intervals, the Secretary of Commerce shall provide Congress with written assessments of Federal efforts to implement this section. In addition, the Secretary of Commerce shall submit an annual report to Congress on the Program, including a description of the research funded under the Program and the results of such research.

(e) AUTHORIZATION OF APPROPRIATIONS.—(1) Of the sums authorized under section 4(a) of the National Oceanic and Atmospheric Administration Marine Fisheries Program Authorization Act (Public Law 98-210; 97 Stat. 1409), there are authorized to be appropriated to the Secretary of Commerce $5,200,000 for each of the fiscal years 1993 through 1997 for carrying out the Program. Of the amount appropriated pursuant to this authorization, not more than 5 percent of such appropriation may be used for administrative purposes by the National Oceanic and Atmospheric Administration. The remaining 95 percent of such appropriation shall be used to meet the administrative and scientific objectives of the Program.

(2) The Interstate Shellfish Sanitation Conference shall not administer appropriations authorized under this section, but may be reimbursed from such appropriations for its expenses in arranging for travel, meetings, workshops, or conferences necessary to carry out the Program.

(f) DEFINITIONS.—As used in this section, the term—

(1) "Consortium" means the Louisiana Universities Marine Consortium; and

(2) "shellfish" means any species of oyster, clam, or mussel that is harvested for human consumption.

SPACE FOR COOPERATIVE INSTITUTE OF FISHERIES OCEANOGRAPHY

SEC. 308. The Secretary of commerce shall acquire on a long-term basis from the Administrator of General Services space on Pivers Island in Beaufort, North Carolina, that is needed to implement the memorandum of understanding of March 2, 1989, between the National Oceanic and Atmospheric Administration, Duke University, and the University of North Carolina establishing the Cooperative Institute of Fisheries Oceanography. This section shall not apply if the annual cost of leasing the required space exceeds $2,000,000.

TITLE IV—ADMINISTRATION AND OTHER ACCOUNTS

PROGRAM SUPPORT

SEC. 401. (a) EXECUTIVE DIRECTION AND ADMINISTRATIVE ACTIVITIES.—There are authorized to be appropriated to the Secretary of Commerce, to enable the National Oceanic and Atmospheric Administration to carry out executive direction and administrative activities (including management, administrative support, provision of retired pay of National Oceanic and Atmospheric Administration commissioned officers, and policy development) under the Act entitled "An Act to clarify the status and benefits of commissioned officers of the National Oceanic and Atmospheric Administration, and for other purposes", approved December 31, 1970 (33 U.S.C. 857-1 et seq.), and any other law involving those activities, $68,460,000 for fiscal year 1992 and $79,547,000 for fiscal year 1993.

(b) MARINE SERVICES.—(1) There are authorized to be appropriated to the Secretary of Commerce, to enable the National Oceanic and Atmospheric Administration to carry out marine services activities (including ship operations, maintenance, and support) under the Act of 1947 and any other law involving those activities, $63,407,000 for fiscal year 1992 and $68,518,000 for fiscal year 1993.

(2) There are authorized to be appropriated to the Secretary of Commerce, to enable the National Oceanic and Atmospheric Administration to acquire a multibeam sonar mapper, $1,500,000 for fiscal year 1993.

(3) In addition to sums authorized in paragraphs (1) and (2), there are authorized to be appropriated to the Secretary of Commerce $1,040,000 for fiscal year 1993 for the reactivation and operation of the research vessel ALBATROSS IV.

(4)(A) Unless necessary for safety reasons, the Secretary of Commerce shall not deactivate the ALBATROSS IV (if active), until an equivalent replacement vessel is operational.

(B) The Secretary of Commerce shall notify the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Merchant Marine and Fisheries of the House of Representatives 60 days prior to the proposed deactivation of any other research vessel of the National Oceanic and Atmospheric Administration, if an equivalent replacement vessel will not become operational at the time of deactivation.

(5) The Secretary of Commerce shall consult with the Oceanographer of the Navy regarding appropriate cost effective and practical measures to allow vessels of the National Oceanic and Atmospheric Administration to be interoperable with vessels of the Department of the Navy, including with respect to operation, maintenance, and repair of those vessels.

(c) AIRCRAFT SERVICES.—There are authorized to be appropriated to the Secretary of Commerce, to enable the National Oceanic and Atmospheric Administration to carry out aircraft services activities (including aircraft operations, maintenance, and support) under the Act of 1890 and any other law involving those activities, $8,865,000 for fiscal year 1992 and $12,372,000 for fiscal year 1993.

NOAA FLEET MODERNIZATION

SEC. 402. (a) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary of Commerce for modernization of the National Oceanic and Atmospheric Administration fleet $50,000,000 for fiscal year 1992 and $10,000,000 for fiscal year 1993 for maintenance, replacement, construction, and instrument upgrades of oceanographic research vessels.

(b) FLEET REPLACEMENT AND MODERNIZATION PLAN.—Not later than January 1, 1993, the Secretary of Commerce shall submit to the Congress a detailed fleet replacement and modernization plan, including a schedule of anticipated modernizations, acquisitions of vessels, acquisition of scientific instruments, hiring of additional personnel, and annual funding requirements for carrying out the plan.

(c) ACQUISITION OF VESSELS UNDER MULTIYEAR CONTRACTS.—(1) Subject to paragraphs (2), (3), and (4), the Secretary of Commerce may acquire vessels of the National Oceanic and Atmospheric Administration fleet by purchase, lease, lease-purchase, or otherwise, under one or more multiyear contracts.

(2) The Secretary of Commerce may not enter into any contract pursuant to this subsection before the date of the submission to the Congress of a plan pursuant to subsection (b).

(3) The Secretary of Commerce may not enter into a contract pursuant to this subsection unless the Secretary finds with respect to that contract that—

(A) there is a reasonable expectation that throughout the contemplated contract period the Secretary will request from the Congress funding for the contract at the level required to avoid contract termination; and

(B) the use of the contract will promote the best interests of the United States by encouraging competition and promoting economic efficiency in the operation of the National Oceanic and Atmospheric Administration fleet.

(4) The Secretary of Commerce may not enter into a contract pursuant to this subsection unless the contract includes—

(A) a provision under which the obligation of the United States to make payments under the contract for any fiscal year is subject to the availability of appropriations provided in advance for those payments;

(B) a provision which specifies the term of effectiveness of the contract;

(C) appropriate provisions under which in case of any termination of the contract before the end of the term specified pursuant to subparagraph (B), the United States shall be liable for the total of—

(i) the annual cost of the contract; and

(ii) an amount specified in the contract for such a termination.

RESTRICTION WITH RESPECT TO CERTAIN SHIPYARD SUBSIDIES

SEC. 403. (a) IN GENERAL.—The Secretary of Commerce may not award a contract for the construction, repair (except emergency repairs), or alteration of any vessel of the National Oceanic and Atmospheric Administration in a shipyard, if that vessel benefits or would benefit from significant subsidies for the construction, repair, or alteration of vessels in that shipyard.

(b) DEFINITION.—In this section, the term "significant subsidy" includes, but is not limited to, any of the following:

(1) Officially supported export credits.

(2) Direct official operating support to the commercial shipbuilding and repair industry, or to a related entity that favors the operation of shipbuilding and repair, including but not limited to—

(A) grants;

(B) loans and loan guarantees other than those available on the commercial market;

(C) forgiveness of debt;

(D) equity infusions on terms inconsistent with commercially reasonable investment practices; and

(E) preferential provision of goods and services.

(3) Direct official support for investment in the commercial shipbuilding and repair industry, or to a related entity that favors the operation of shipbuilding and repair, including but not limited to the kinds of support listed in paragraph (2)(A) through (E), and any restructuring support, except public support for social purposes directly and effectively linked to shipyard closures.

(4) Assistance in the form of grants, preferential loans, preferential tax treatment, or otherwise, that benefits or is directly related to shipbuilding and repair for purposes of research and development that is not equally open to domestic and foreign enterprises.

(5) Tax policies and practices that favor the shipbuilding and repair industry, directly or indirectly, such as tax credits, deductions, exemptions, and preferences, including accelerated depreciation, if such benefits are not generally available to persons or firms not engaged in shipbuilding or repair.

(6) Any official regulation or practice that authorizes or encourages persons or firms engaged in shipbuilding or repair into anticompetitve arrangements.

(7) Any indirect support directly related, in law or in fact, to shipbuilding and repair at national yards, including any public assistance favoring shipowners with an indirect effect on shipbuilding or repair activities, and any assistance provided to suppliers of significant inputs to shipbuilding, which results in benefits to domestic shipbuilders.

(8) Any export subsidy identified in the Illustrative List of Export Subsidies in the Annex to the Agreement on Interpretation and Application of Articles VI, XVI, and XXIII of the General Agreement on Tariffs and Trade or any other export subsidy that may be prohibited as a result of the Uruguay Round of trade negotiations.

CONSTRUCTION

SEC. 404. (a) IN GENERAL.—There are authorized to be appropriated to the Secretary of Commerce, for acquisition, construction, maintenance, and operation of facilities of the National Oceanic and Atmospheric Administration under any law involving those activities, $34,917,000 for fiscal year 1992 and $90,797,000 for fiscal year 1993.

(b) ACQUISITION OF NOAA AIRCRAFT.—Of the sums authorized under subsection (a) for fiscal year 1993, no more than $30,000,000 are authorized to be appropriated for acquisition of an aircraft to enhance the ability of the National Oceanic and Atmospheric Administration to conduct tropospheric research.

(c) ACQUISITION OF SPACE IN NEWPORT NEWS-NORFOLK AREA.—The Secretary of Commerce shall acquire space from the Administrator of General Services in the area of Newport News-Norfolk, Virginia, for use for consolidating and meeting the long-term space needs of the National Oceanic and Atmospheric Administration in a cost effective manner. In order to acquire this space, the Administrator of General Services may, with the Secretary's consent, exchange real property owned by the Department of Commerce for other real property, including improvements to that property, in that area.

NOTICE OF REPROGRAMMING

SEC. 405. The Secretary of Commerce shall provide notice to the Committee on Commerce, Science, and Transportation and Committee on Appropriations of the Senate and to the Committee on Merchant Marine and Fisheries, Committee on Science, Space, and Technology, and Committee on Appropriations of the House of Representatives, not less than 30 days before reprogramming funds available for a program, project, or activity of the National Oceanic and Atmospheric Administration in an amount greater than the lesser of $500,000 or 10 percent of the total funding of such program, project, or activity if the reprogramming—

(1) augments an existing program, project, or activity;

(2) reduces by 10 percent (A) the funding for an existing program, project, or activity or (B) the numbers of personnel therefor as approved by Congress; or

(3) results from any general savings from a reduction in personnel which would result in a change in an existing program, project, or activity.

FINANCIAL ASSISTANCE

SEC. 406. (a) PROCESSING OF APPLICATIONS.—Within 12 months after the date of enactment of this Act, the Secretary of Commerce shall develop and, after notice and opportunity for public comment, promulgate regulations or guidelines to ensure that a completed application for a grant, contract, or other financial assistance under a nondiscretionary assistance program shall be processed and approved or disapproved within 75 days after submission of the application to the responsible program office of the National Oceanic and Atmospheric Administration.

(b) NOTIFICATION OF APPLICANT.—Not later than 14 days after the date on which the Secretary of Commerce receives an application for a contract, grant, or other financial assistance provided under a nondiscretionary assistance program administered by the National Oceanic and Atmospheric Administration, the Secretary shall indicate in writing to the applicant whether or not the application is complete and, if not complete, shall specify the additional material that the applicant must provide to complete the application.

(c) EXEMPTION.—In the case of a program for which the recipient of a grant, contract, or other financial assistance is specified by statute to be, or has customarily been, a State or an interstate fishery commission, such financial assistance may be provided by the Secretary to that recipient on a sole-source basis, notwithstanding any other provision of law.

(d) DEFINITION.—In this section, the term "nondiscretionary assistance program" means any program for providing financial assistance—

(1) under which the amount of funding for, and the intended recipient of, the financial assistance is specified by Congress; or

(2) the recipients of which have customarily been a State or an interstate fishery commission.

TITLE V—NATIONAL MARINE MONITORING PROGRAM

AMENDMENT TO MARINE PROTECTION, RESEARCH, AND SANCTUARIES ACT

SEC. 501. The Marine Protection, Research, and Sanctuaries Act of 1972 (16 U.S.C. 1431 et seq.) is amended by adding at the end the following new title:

"TITLE V—NATIONAL MARINE MONITORING PROGRAM

"SEC. 501. PURPOSES.

"The purposes of this title are to—

"(1) establish a comprehensive national program for consistent monitoring of the Nation's marine ecosystems;

"(2) establish a system for reviewing and evaluating the scientific, analytical, and technological means that are available for monitoring the environmental quality of marine ecosystems;

"(3) establish methods for identifying uniform indicators of marine ecosystem quality;

"(4) provide for periodic, comprehensive reports to Congress concerning the quality of the Nation's marine ecosystems;

"(5) establish a marine environment information program to distribute marine monitoring information, and to develop active programs of marine education and outreach;

"(6) provide State programs authorized under the Coastal Zone Management Act of 1972 (16 U.S.C. 1451 et seq.) with information necessary to design land use plans and coastal zone regulations that will contribute to the protection of marine ecosystems; and

"(7) provide water pollution control programs authorized under the Clean Water Act (33 U.S.C. 1251 et seq.) with information necessary to design and implement effective water pollution controls.

"SEC. 502. DEFINITIONS.

"As used in this title, the term—

"(1) 'monitoring' means any activity which produces, through continuous or repetitious scientific sampling and observation, measurements of changes in environmental conditions or qualities;

"(2) 'marine waters' means estuaries, waters of the estuarine zone (including wetlands), any other waters seaward of the historic height of tidal influence, the territorial seas, the contiguous zone, and the ocean; and

"(3) 'marine ecosystem' means a system of interacting biological, chemical, and physical components throughout the water column, sea surface, and benthic environment of marine waters.

"SEC. 503. COMPREHENSIVE MARINE MONITORING PROGRAM.

"(a) AUTHORITY.—

"(1) JOINT IMPLEMENTATION.—The Administrator of the Environmental Protection Agency and the Administrator of the National Oceanic and Atmospheric Administration shall jointly complement a program for the collection, assimilation, and analysis of scientific data designed to measure the environmental quality of the Nation's marine ecosystems pursuant to this section. The program, which shall be known as the Comprehensive Marine Monitoring Program, shall build upon existing monitoring and related programs within the National Oceanic and Atmospheric Administration and the Environmental Protection Agency, including the National Status and Trends Program.

"(2) LOCATION OF EPA ACTIVITIES.—Monitoring Program activities conducted by the Environmental Protection Agency pursuant to this section shall be located at the Environmental Research Laboratory in Narragansett, Rhode Island.

"(3) COORDINATION WITH STATES.—The Comprehensive Marine Monitoring Program shall be developed and implemented in consultation and cooperation with coastal States.

"(b) PROGRAM ELEMENTS.—The Comprehensive Marine Monitoring Program shall include, but is not limited to—

"(1) identification and analysis of the status of environmental quality in the Nation's marine ecosystems, including but not limited to assessment of—

"(A) ambient water quality, including contaminant levels in relation to standards adopted pursuant to title III of the Federal Water Pollution Control Act (33 U.S.C. 1311 et seq.);

"(B) benthic environmental quality, including analysis of contaminant levels in sediments in relation to standards adopted pursuant to title III of the Federal Water Pollution Control Act (33 U.S.C. 1311 et seq.); and

"(C) health and quality of living resources;

"(2) identification of sources of environmental degradation affecting marine ecosystems;

"(3) assessment of the impact of governmental programs and management strategies and measures designed to abate or prevent the degradation of marine ecosystems;

"(4) assessment of the accumulation of floatables along marine shorelines; and

"(5) analysis of expected short-term and long-term trends in the environmental quality of the Nation's marine ecosystems.

"(c) UNIFORM INDICATORS OF ECOSYSTEM QUALITY.—The Comprehensive Marine Monitoring Program established pursuant to this section shall provide for the identification of indicators of marine ecosystem quality. The Program shall include the identification of appropriate physical, chemical, and biological indicators of marine ecosystem health or stress, including but not limited to—

"(1) indicators of biological responses to contaminants within marine ecosystems; and

"(2) indicators of the effects of pollutants on populations of living marine resources.

"(d) MONITORING METHODS REVIEW SYSTEM.—

"(1) INCLUSION OF SYSTEM IN COMPREHENSIVE PROGRAM.—The Comprehensive Marine Monitoring Program established pursuant to this section shall include a system for designing, reviewing, and evaluating methods for monitoring marine ecosystems.

"(2) ELEMENTS OF SYSTEM.—The system shall include, but is not limited to—

"(A) establishment and review of protocols for data collection and observation within the monitoring process, including protocols for assessment of the accumulation of floatables;

"(B) review and guidance regarding proper methods for statistical analysis of monitoring data;

"(C) evaluation of technological methods and materials used in the monitoring process; and

"(D) establishment of a quality control system to ensure that monitoring methods are used correctly and uniformly, and to protect the validity and comparability of monitoring data.

"(3) PROMULGATION OF PROTOCOLS.—Protocols established and reviewed pursuant to paragraph (2)(A) shall be promulgated within 2 years after the date of enactment of this title. Within 6 months after the promulgation of such protocols, monitoring pursuant to this Act and the Federal Water Pollution Control Act shall be consistent with the protocols.

"(e) INTENSIVE MONITORING PROGRAMS.—

"(1) DESIGNATION OF INTENSIVE MONITORING AREAS.—The Comprehensive Marine Monitoring Program established pursuant to this section shall provide for the designation, in consultation with coastal States, of specific estuarine and coastal areas in which the marine ecosystems shall be intensively monitored.

"(2) INTENSIVE MONITORING WITHIN DESIGNATED AREAS.—Within 2 years after an area is designated under paragraph (1), the Administrator of the National Oceanic and Atmospheric Administration and the Administrator of the Environmental Protection Agency shall develop and begin implementing a multiyear program of intensive monitoring of the quality of the marine ecosystems within such area, ensuring that—

"(A) the intensive monitoring program is consistent with provisions of the marine research plan developed under title IV which is applicable to the designated area;

"(B) monitoring activities are conducted in coordination with activities conducted pursuant to title IV;

"(C) the monitoring program is tailored to the specific monitoring needs of the area;

"(D) the monitoring program is coordinated with State monitoring activities;

"(E) monitoring methods are consistent with the provisions of subsection (d); and

"(F) a draft plan of the monitoring program is made available to the public for review and comment within 12 months after the area is designated under paragraph (1).

"(3) MONITORING OF MASSACHUSETTS BAY AND CAPE COD BAY.—The Administrator of the National Oceanic and Atmospheric Administration and the Administrator of the Environmental Protection Agency shall, in connection with the clean-up of Boston Harbor, jointly conduct monitoring in Massachusetts Bay and Cape Code Bay to establish baseline data on environmental phenomena (such as bacteria, quantity and quality of indigenous species, and swimmability) and determine the ecological impacts resulting from the discharge to those Bays, including the effects of the effluent from the proposed Boston Harbor outfall. Such monitoring shall be conducted in coordination with appropriate public and private entities, especially the Massachusetts Water Resources Agency.

"(4) MONITORING OF CHESAPEAKE BAY.—The Administrator of the National Oceanic and Atmospheric Administration and the Administrator of the Environmental Protection Agency shall establish a program of intensive monitoring of the marine ecosystem within the Chesapeake Bay.

"(f) COMPREHENSIVE IMPLEMENTATION STRATEGY.—

"(1) IN GENERAL.—Within 1 year after the date of enactment of this title, the Administrator of the National Oceanic and Atmospheric Administration and the Administrator of the Environmental Protection Agency shall jointly submit to Congress a Comprehensive Implementation Strategy identifying the current and planned activities to implement the Comprehensive Marine Monitoring Program pursuant to this section.

"(2) CONSULTATION.—The Administrator of the National Oceanic and Atmospheric Administration and the Administrator of the Environmental Protection Agency shall consult with the Director of the Fish and Wildlife Service, the Director of the Minerals Management Service, the Commandant of the Coast Guard, the Secretary of the Navy, the Secretary of Agriculture, the administrators of any other relevant Federal or regional agencies, and coastal States in developing such Strategy.

"(3) PUBLIC COMMENT.—Not less than 3 months before submitting such Strategy to Congress, the Administrator of the National Oceanic and Atmospheric Administration and the Administrator of the Environmental Protection Agency shall jointly publish a draft version of such Strategy in the Federal Register, and shall solicit public comments regarding such Strategy.

"(4) MEMORANDA OF UNDERSTANDING.—Within 1 year after submission of such Strategy under paragraph (1), the Administrator of the National Oceanic and Atmospheric Administration and the Administrator of the Environmental Protection Agency shall enter into Memoranda of Understanding with appropriate Federal agencies necessary to effect the coordination of Federal marine monitoring programs. The Memoranda of Understanding shall identify the monitoring and reporting responsibilities of each agency and shall encourage the coordination of monitoring activities where possible.

"SEC. 504. REPORT TO CONGRESS.

On September 30 of each year beginning in 1994, the Administrator of the National Oceanic and Atmospheric Administration and the Administrator of the Environmental Protection Agency shall jointly submit to Congress a report describing the condition of the Nation's marine ecosystems, including the following components:

"(1) an assessment of the status and health of the Nation's marine ecosystems;

"(2) an evaluation of environmental trends in marine ecosystems;

"(3) identification of sources of environmental degradation affecting marine ecosystems;

"(4) an assessment of the extent to which floatables degrade marine ecosystems, including trends in the accumulation of floatables and the threat posed by floatables to marine life;

"(5) an assessment of the impact of government programs designed to abate the degradation of marine ecosystems;

"(6) an evaluation of the adequacy of monitoring programs and identification of any additional program elements which may be needed.

"SEC. 505. MARINE ENVIRONMENT INFORMATION PROGRAM.

"The Administrator of the National Oceanic and Atmospheric Administration and the Administrator of the Environmental Protection Agency shall jointly establish a Marine Environment Information Program to compile, analyze, and disseminate information on assessing marine degradation, on practices and techniques effective in restoring and protecting marine ecosystems, and on other issues related to the marine environment. The program required pursuant to this section shall—

"(1) distribute marine degradation analyses, assessments, and information regarding techniques and practices;

"(2) include programs for education and active outreach to State, regional, and local agencies and other appropriate organizations to improve progress in addressing marine environmental degradation;

"(3) make available to the public such information on marine environmental degradation as may be available;

"(4) organize national and regional workshops and meetings for review of monitoring reports, practices, and information; and

"(5) include an electronic information system for communication of monitoring information through national computer networks.

"SEC. 506. AUTHORIZATION OF APPROPRIATIONS.

"(a) NOAA AUTHORIZATION.—For the implementation of the programs under this title, there are authorized to be appropriated to the National Oceanic and Atmospheric Administration amounts not to exceed $1,500,000 for fiscal year 1992; $3,500,000 for fiscal year 1993, $6,000,000 for fiscal year 1994; $7,500,000 for fiscal year 1995; and $7,500,000 for fiscal year 1996.

"(b) EPA AUTHORIZATION.—For the implementation of the programs under this title, there are authorized to be appropriated to the Environmental Protection Agency amounts not to exceed $1,500,000 for fiscal year 1992; $3,500,000 for fiscal year 1993; $6,000,000 for fiscal year 1994; $7,500,000 for fiscal year 1995; and $7,500,000 for fiscal year 1996.".

TITLE VI—NOAA FOUNDATION

SHORT TITLE

SEC. 601. This title may be cited as the "NOAA Foundation Establishment Act".

ESTABLISHMENT AND FUNCTIONS

SEC. 602. (a) ESTABLISHMENT.—There is established a charitable and nonprofit corporation to be known as the NOAA Foundation (hereafter in this title referred to as the "Foundation"). The Foundation is not an agency or establishment of the United States.

(b) FUNCTIONS.—The functions of the Foundation are—

(1) to encourage, accept, and administer private gifts for the benefit of, or in connection with, the programs and activities of the National Oceanic and Atmospheric Administration, and for the benefit of, or in connection with, the activities of the Foundation;

(2) to undertake activities to enhance, support, or complement the research, analysis, measurement, assessment, conservation, management, regulatory, and service programs and activities of the National Oceanic and Atmospheric Administration;

(3) to participate with and otherwise assist international organizations, foreign governments, entities, and individuals in undertaking and conducting activities of a type conducted by the National Oceanic and Atmospheric Administration or which complement its programs and activities; and

(4) to conduct education, demonstration, outreach and training (including the convening of symposia and the presentation of public exhibitions and displays) to foster understanding of the mission of the National Oceanic and Atmospheric Administration and its programs and activities, and to stimulate and encourage appropriate cooperation and participation in its activities by regional, State and local agencies, and private organizations and individuals.

BOARD OF DIRECTORS

Sec. 603. (a) MEMBERSHIP.—The Foundation shall have a governing Board of Directors (hereafter referred to in this title as the "Board"). The Board shall consist of 13 voting members, of whom—

(1) at least 11 shall be United States citizens;

(2) nine shall be knowledgeable with respect to one or more of the research, analysis, measurement, assessment, conservation, management, regulatory, or service programs and activities of the National Oceanic and Atmospheric Administration; and

(3) four shall be educated and experienced in a scientific, technical, or professional field relating to one or more of the programs or activities of the National Oceanic and Atmospheric Administration.

The membership of the Board shall, in aggregate, possess a broad understanding of the range of programs and activities of the National Oceanic and Atmospheric Administration, and to the extent practicable, shall represent diverse points of view relating to those programs and activities. The Administrator of the National Oceanic and Atmospheric Administration shall be an ex-officio nonvoting member of the Board. Appointment to the Board shall not constitute employment by, or the holding of an office of, the United States for the purposes of any Federal law.

(b) APPOINTMENT AND TERMS.—By October 1, 1991, the Secretary of the Commerce shall appoint the voting members of the Board. The voting members shall be appointed for terms of 6 years; except that the Secretary, in making the initial appointments to the Board, shall appoint four members to a term of 2 years, four members to a term of 4 years, and five members to a term of 6 years. A vacancy on the Board shall be filled, within 60 days after such vacancy, in the manner in which the original appointment was made. No individual may serve more than two consecutive terms as a member.

(c) CHAIRMAN.—From among its voting members the Board shall elect a chairman, who shall have a 2-year term.

(d) QUORUM.—A majority of the voting members of the Board serving at any one time shall constitute a quorum for the transaction of business at that time.

(e) MEETINGS.—The Board shall meet at the call of the chairman at least once a year. If an individual serving as a voting member misses three consecutive regularly scheduled meetings, the Secretary of Commerce may remove that individual from the Board as a voting member and fill the vacancy in accordance with subsection (b).

(f) REIMBURSEMENT OF EXPENSES.—Voting members of the Board shall serve without pay, but may be reimbursed for the actual and necessary traveling and subsistence expenses incurred by them in the performance of the duties of the Foundation.

(g) GENERAL POWERS.—(1) The Board may complete the organization of the Foundation by—

(A) appointing officers and employees;

(B) adopting a constitution and bylaws consistent with the functions of the Foundation and the provisions of this title; and

(C) undertaking such other acts as may be necessary to carry out the provisions of this title.

(2) The following limitations apply with respect to the appointment of officers and employees of the Foundation:

(A) Officers and employees may not be appointed until the Foundation has sufficient funds to pay them for their service. Officers and employees of the Foundation shall be appointed without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and may be paid without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates, except that no individual so appointed may receive pay in excess of the annual rate of basic pay in effect for grade GS–18 of the General Schedule.

(B) The first officer or employee appointed by the Board shall be the secretary of the Board who (i) shall serve, at the direction of the Board, as its chief operating officer and (ii) shall be knowledgeable and experienced in matters relating to the functions and programs of the National Oceanic and Atmospheric Administration.

RIGHTS, OBLIGATIONS, AND POWERS OF THE FOUNDATION

SEC. 604. (a) IN GENERAL.—The Foundation—

(1) shall have perpetual succession;

(2) may conduct business throughout the several States, territories, and possessions of the United States and abroad;

(3) shall have its principal offices in the District of Columbia; and

(4) shall at all times maintain a designated agent authorized to accept service of process for the Foundation.

The serving of notice to, or service of process upon, the agent required under paragraph (4), or mailed to the business address of such agent, shall be deemed as service upon or notice to the Foundation.

(b) SEAL.—The Foundation shall have an official seal selected by the Board which shall be judicially noticed.

(c) POWERS.—To carry out its functions under section 602, the Foundation shall have, in addition to the powers otherwise given it under this title, the usual powers of a corporation acting as a trustee in the District of Columbia, including the power—

(1) to accept, receive, solicit, hold, administer, and use any gift, device, or bequest, either absolutely or in trust, or real or personal property or any income therefrom or other interest therein;

(2) to acquire by purchase or exchange any real or personal property or interest therein;

(3) unless otherwise required by the instrument of transfer, to sell, donate, lease, invest, reinvest, retain, or otherwise dispose of any property or income therefrom;

(4) to sue and be sued, and complain and defend itself in any court of competent jurisdiction, except that neither the members of

the Board nor the officers or employees of the Foundation shall be personally liable, other than for gross negligence;

(5) to enter into contracts or other arrangements with public agencies and private organizations and persons and to make and receive such payments as may be necessary to carry out functions of the Foundation;

(6) to engage in joint projects with the National Oceanic and Atmospheric Administration under any law authorizing the Secretary of Commerce or the Administrator of the National Oceanic and Atmospheric Administration to engage in joint projects with private, non-profit organizations; and

(7) to do any and all acts necessary and proper to carry out the functions of the Foundation.

For purposes of this title, an interest in real property shall be treated as including, among other things, easements or other rights for preservation, conservation, protection, or enhancement by and for the public of natural, scenic, historic, scientific, educational, inspirational, or recreational resources. A gift, device, or bequest may be accepted by the Foundation even though it is encumbered, restricted, or subject to beneficial interests of private persons if any current or future interest therein is for the benefit of the Foundation.

ADMINISTRATIVE SERVICES AND SUPPORT

SEC. 605. (a) PROVISION OF SERVICES.—The Secretary of Commerce may provide personnel, facilities, and other administrative services and assistance to the Foundation, including reimbursement of expenses under section 603(f) not to exceed current Federal Government per diem rates, for a period of up to 5 years after the date of enactment of this Act.

(b) REIMBURSEMENT.—The Foundation may reimburse the Secretary of Commerce for any administrative service provided under subsection (a). The Secretary shall deposit any reimbursement received under this subsection into the Treasury to the credit of the appropriation then current and chargeable for the cost of providing such services.

VOLUNTEER STATUS

SEC. 606. The Secretary of Commerce may accept, without regard to the civil service classification laws, rules, or regulations, the services of the Foundation, the Board, and the officers and employees of the Board, without compensation from the Department of the Commerce, as volunteers in the performance of the functions authorized under this title, in the manner provided for under section 7(c) of the Fish and Wildlife Act of 1956 (16 U.S.C. 742f(c)).

AUDITS, REPORT REQUIREMENT, AND PETITION OF ATTORNEY GENERAL FOR EQUITABLE RELIEF

SEC. 607. (a) AUDITS.—The first section of the Act entitled "An Act to provide for audit of accounts of private corporations established under Federal law", approved August 30, 1964 (36 U.S.C. 1101), is amended by adding at the end the following new paragraph:

"(75) NOAA Foundation.".

(b) REPORT.—The Foundation shall, as soon as practicable after the end of each fiscal year, transmit to Congress a report of its proceedings and activities during such year, including a full and complete statement of its receipts, expenditures, and investments.

(c) RELIEF WITH RESPECT TO CERTAIN FOUNDATION ACTS OR FAILURE TO ACT.—If the Foundation—

(1) engages in, or threatens to engage in, any act, practice, or policy that is inconsistent with its functions set forth in section 602(b); or

(2) refuses, fails, or neglects to discharge its obligations under this tile, or threatens to do so, the Attorney General of the United States may petition in the United States District Court for the District of Columbia for such equitable relief as may be necessary or appropriate.

RELEASE FROM LIABILITY

SEC. 608. The United States shall not be liable for any debts, defaults, acts, or omissions of the Foundation nor shall the full faith and credit of the United States extend to any obligation of the Foundation.

AUTHORIZATION OF APPROPRIATIONS

SEC. 609. There are authorized to be appropriated to the Secretary of Commerce to enable the National Oceanic and Atmospheric Administration to provide administrative services to the Foundation under section 605, $200,000 for fiscal year 1993.

TITLE VII—WEATHER SERVICE MODERNIZATION

SHORT TITLE

SEC. 701. This title may be cited as the "Weather Service Modernization Act".

DEFINITIONS

SEC. 702. For the purposes of this title, the term—

(1) "automate" means to replace employees with automated weather service equipment;

(2) "change operations at a field office" means transfer service responsibility, commission weather observation systems, decommission a National Weather Service radar, change staffing levels significantly, or move a field office to a new location inside the local commuting and service area;

(3) "Committee" means the Modernization Transition Committee established by section 707;

(4) "degradation of service" means any decrease in or failure to maintain the quality and type of weather services provided by the National Weather Service to the public in a service area, including but not limited to a reduction in existing weather radar coverage at an elevation of 10,000 feet;

(5) "field office" means any National Weather Service Office or National Weather Service Forecast Office;

(6) "Plan" means the National Implementation Plan required under section 703;

(7) "relocate" means to transfer from one location to another location that is outside the local commuting and service area;

(8) "Secretary" means the Secretary of Commerce;

(9) "service area" means the geographical area for which a field office provides services or conducts observations, including but not limited to local forecasts, severe weather warnings, aviation support, radar coverage, and ground weather observations; and

(10) "Strategic Plan" means the 10-year strategic plan for the comprehensive modernization of the National Weather Service, required under section 407 of the National Aeronautics and Space Administration Authorization Act, Fiscal Year 1989 (15 U.S.C. 313 note).

NATIONAL IMPLEMENTATION PLAN

SEC. 703. (a) NATIONAL IMPLEMENTATION PLAN.—As part of the budget justification documents submitted to Congress in support of the annual budget request for the Department of Commerce, the Secretary shall include a National Implementation Plan for modernization of the National Weather Service for each fiscal year following fiscal year 1993 until such modernization is complete. The Plan shall set forth the actions, during the 2-year period beginning with the fiscal year for which the budget request is made, that will be necessary to accomplish the objectives described in the Strategic Plan, and shall include—

(1) detailed requirements for new technologies, facilities, staffing levels and positions, and funding, in accordance with the overall schedule for modernization;

(2) notification of any proposed action to change operations at a field office and the intended date of such operational change;

(3) identification of any field office that the Secretary intends to certify under section 706, including the intended date of such certification;

(4) special measures to test, evaluate, and demonstrate key elements of the modernized National Weather Service operations prior to national implementation, including a multistation operational demonstration which tests the performance of the modernization in an integrated manner for a sustained period;

(5) detailed plans and funding requirements for meteorological research to be accomplished under this title to assure that new techniques in forecasting will be developed to utilize the new technologies being implemented in the modernization; and

(6) training and education programs to ensure that employees gain the necessary expertise to utilize the new technologies and to minimize employee displacement as a consequence of modernization.

(b) TRANSMITTAL TO COMMITTEE. The Secretary shall transmit a copy of each annual Plan to the Committee.

(c) CONSULTATION.—In developing the Plan, the Secretary shall consult, as appropriate, with the Committee and public entities responsible for providing or utilizing weather services.

MODERNIZATION CRITERIA

SEC. 704. (a) NATIONAL RESEARCH COUNCIL REVIEW.—The Secretary shall contract with the National Research Council for a review of the scientific and technical modernization criteria by which the Secretary proposes to certify action to close, consolidate, automate, or relocate a field office under section 706. In conducting such review, the National Research Council shall prepare and submit to the Secretary, no later than 9 months after the date of enactment of this Act, a report which —

(1) assesses requirements and procedures for commissioning new weather observation systems, decomissioning and outdated National Weather Service radar, and evaluating staffing needs for field offices in an affected service area;

(2) assesses the statistical and analytical measures that should be made for a service area to form an adequate basis for determining that there will be no degradation of service; and

(3) includes such other recommendations as the National Research Council determines are appropriate to ensure public safety.

(b) CRITERIA.—No later than 12 months after the date of enactment of this Act, the Secretary, in consultation with the National Research Council and the Committee and after notice and opportunity for public comment, shall publish in the Federal Register modernization criteria (including all requirements and procedures), based on the report required under this section, for—

(1) commissioning new weather observation systems, decommissioning an outdated National Weather Service radar, and evaluating staffing needs for field offices in an affected service area; and

(2) certifying action to close, consolidate, automate, or relocate a field office under section 706.

CHANGES IN FIELD OFFICE OPERATIONS

SEC. 705. (a) NOTIFICATION.—The Secretary shall not change operations at a field office pursuant to implementation of the Strategic Plan unless the Secretary has provided the notification required by section 703.

(b) WEATHER RADAR DECOMMISSIONING.—The Secretary shall not remove or permanently decommission any National Weather Service radar until the Secretary has prepared radar commissioning and decommissioning reports documenting that such action would be consistent with the modernization criteria established under section 704(b)(1). The commissioning report shall document that the radar system performs reliably, satisfactory maintenance support is in place, sufficient staff with adequate training are present to operate the system, technical coordination with weather service users has been completed, and the radar being commissioned satisfactorily supports field office operations. The decommissioning report shall document that the replacement radar has been commissioned, technical coordination with service users has been completed, and the radar being decommissioned is no longer needed to support field office operations.

RESTRUCTURING FIELD OFFICES

SEC. 706. (a) PROHIBITION.—The Secretary shall not close, before January 1, 1996, any field office pursuant to implementation of the Strategic Plan.

(b) CERTIFICATION.—The Secretary shall not close, consolidate, automate, or relocate any field office, unless the Secretary has certified that such action will not result in any degradation of service. Such certification shall include—

(1) a description of local weather characteristics and weather-related concerns which affect the weather services provided within the service area;

(2) a detailed comparison of the service provided within the service area and the services to be provided after such action;

(3) a description of any recent or expected modernization of National Weather Service operations which will enhance services in the service area;

(4) an identification of any area within any State which would not receive coverage (at an elevation of 10,000 feet) by the next generation weather radar network;

(5) evidence, based upon operational demonstration of modernized National Weather Service operations, which was considered in reaching the conclusion that no degradation in service will result from such action; and

(6) any report of the Committee submitted under section 707(c) that evaluates the proposed certification.

(c) PUBLIC REVIEW.—Each certification decision shall be preceded by—

(1) publication in the Federal Register of a proposed certification; and

(2) a 60-day period after such publication during which the public may provide comments to the Secretary on the proposed certification.

(d) FINAL DECISION.—If after consideration of the public comment received under subsection (c) the Secretary, in consultation with the Committee, decides to close, consolidate, automate, or relocate any such field office, the Secretary shall publish a final certification in the Federal Register and submit the certification to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Science, Space, and Technology of the House of Representatives.

(e) SPECIAL CIRCUMSTANCES.—The Secretary may not close or relocate any field office—

(1) which is located at an airport, unless the Secretary, in consultation with the Secretary of Transportation and the Committee, first conducts an air safety appraisal, determines that such action will not result in degradation of service that affects aircraft safety, and includes such determination in the certification required under subsection (b); or

(2) which is the only office in a State, unless the Secretary first evaluates the effect on weather services provided to in-State users, such as State agencies, civil defense officials, and local public safety offices, and includes in the certification required under subsection (b) the Secretary's determination that a comparable level of weather services provided to such in-State users will remain.

(f) LIAISON OFFICER.—The Secretary may not close, consolidate, automate, or relocate a field office until arrangements have been made to maintain for a period of at least 2 years at least one person in the service area to act as a liaison officer who—

(1) provides timely information regarding the activities of the National Weather Service which may affect service to the community, including modernization and restructuring; and

(2) works with area weather service users, including persons associated with general aviation, civil defense, emergency preparedness, and the news media, with respect to the provision of timely weather warnings and forecasts.

MODERNIZATION TRANSITION COMMITTEE

SEC. 707. (a) ESTABLISHMENT.—There is established a committee of 12 members to be known as the Modernization Transition Committee.

(b) MEMBERSHIP AND TERMS.—(1) The Committee shall consist of—

(A) five members representing agencies and departments of the United States which are responsible for providing or using weather services, including but not limited to the National Weather Service, the Department of Defense, the Federal Aviation Administration, and the Federal Emergency Management Agency; and

(B) seven members to be appointed by the Secretary from civil defense and public safety organizations, news media, any labor organization certified by the Federal Labor Relations Authority as an exclusive representative of weather service employees, meteorological experts, and private sector users of weather information such as pilots and farmers.

(2) The term of office of a member of the Committee shall be 3 years; except that, of the original membership, four shall serve a 5-year term, four shall serve a 4-year term, and four shall serve a 3-year term. No individual may serve for more than one additional 3-year term.

(3) The Secretary shall designate a chairman of the Committee from among its members.

(c) DUTIES.—(1) The Committee may review any proposed certification under section 706 for which the Secretary has provided a notice of intent to certify in the Plan, and should review such a proposed certification if there is a significant possibility of degradation of service within the affected service area. Upon the request of the Committee, the Secretary shall make available to the Committee the supporting documents developed by the Secretary in connection with the proposed certification. The Committee may prepare and submit to the Secretary, prior to publication of the proposed certification, a report which evaluates the proposed certification on the basis of the modernization criteria and with respect to the requirement that there be no degradation of service.

(2) The Committee shall advise the Congress and the Secretary on—

(A) the implementation of the Strategic Plan, annual development of the Plan, and establishment and implementation of modernization criteria; and

(B) matters of public safety and the provision of weather services which relate to the comprehensive modernization of the National Weather Service.

(d) PAY AND TRAVEL EXPENSES.—Members of the Committee who are not employees of the United States shall each be paid at a rate equal to the daily equivalent of the rate for GS–18 of the General Schedule under section 5332 of title 5, United States Code, for each day (including travel time, during which the member is engaged in the actual performance of duties vested in the Committee. Members shall receive travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of title 5, United States Code.

(e) STAFF.—The Secretary shall make available to the Committee such staff, information, and assistance as it may reasonably require to carry out its activities.

(f) TERMINATION.—The Committee shall terminate on December 31, 1999.

WEATHER SERVICE REPORT

SEC. 708. (a) REPORT.—The Secretary shall prepare a report on the proposed modernization of the National Weather Service and transmit the report, not later than 6 months after the date of enactment of this Act, to the committee on Commerce, Science, Transportation of the Senate and the Committee on Science, Space, and Technology of the House of Representatives.

(b) CONTENTS.—(1) The report required by subsection (a) shall identify the size of the geographic area of responsibility of each proposed Weather Forecast Office and shall include an explanation of the number and type of personnel required at each Weather Forecast Office. For each proposed Weather Forecast Office covering a geographic area greater than two times the average geographic area of responsibility of Weather Forecast Offices nationwide, the report shall detail the reasons for assigning those Weather Forecast Offices a geographic area which differs significantly from the national average.

(2) The report shall list the number of next generation weather radars that will be associated with each Weather Forecast Office nationwide under the proposed modernization plan. If some Weather Forecast Offices will be associated with more than one such radar, the report shall explain the deviation from the National Weather Service's stated policy of associating one such radar with one Weather Forecast Office, and shall analyze and compare any differences in the expected efficiency of those Weather Forecast Offices with Weather Forecast Offices that will be associated with only one such radar.

(C) CONSULTATION.—In preparing portions of the report that address Weather Forecast Offices located in areas of the Nation that are uniquely dependent on general aviation as a means of transportation, the Secretary shall consult with local aviation groups. In the case of Alaska, such local groups shall include the Alaska Aviation Safety Founda-

tion, the Alaska Airmen's Association, and the regional representatives of the Aircraft Owners and Pilots Association.

REPEALS

SEC. 709. The National Aeronautics and Space Administration Authorization Act, Fiscal Year 1989 (15 U.S.C. 313 note), is amended by repealing—

(1) subsections (b), (c) and (d) of section 407; and

(2) section 408.

TITLE VIII—NORTH PACIFIC ANADROMOUS STOCKS CONVENTION

SHORT TITLE

SEC. 801. This title may be cited as "the North Pacific Anadromous Stocks Act of 1992".

PURPOSE

SEC. 802. It is the purpose of this title to implement the Convention for the Conservation of Anadromous Stocks in the North Pacific Ocean, signed in Moscow, February 11, 1992.

DEFINITIONS

SEC. 803. As used in this title, the term:

(1) "Anadromous stocks" means stock of species listed in the Annex to the Convention that migrate into the Convention area.

(2) "Anadromous fish" means fish of the species listed in the Annex to the Convention that migrate into the Convention area.

(3) "Authorized officer" means a law enforcement official authorized to enforce this title under section 809(a).

(4) "Commission" means the North Pacific Anadromous Fish Commission provided for by article VIII of the Convention.

(5) "Convention" means the Convention for the Conservation of Anadromous Stocks of the North Pacific Ocean, signed in Moscow, February 11, 1992.

(6) "Convention area" means the waters of the North Pacific Ocean and its adjacent seas, north of 33 degrees North Latitude, beyond two hundred nautical miles from the baselines from which the breath of the territorial sea is measured.

(7) "Directed fishing" means fishing targeted at a particular species or stock of fish.

(8) "Ecologically related species" means living marine species which are associated with anadromous stocks found in the Convention area, including, but not restricted to, both predators and prey of anadromous species.

(9) "Enforcement officer" means a law enforcement official authorized by any Party to enforce this title.

(10) "Exclusive economic zone" means the zone established by Proclamation Numbered 5030, dated March 10, 1983. For purposes of applying this title, the inner boundary of that zone is a line coterminous with the seaward boundary of each of the coastal States.

(11) "Fish" means finfish, mollusks, crustaceans, and all other forms of marine animal and plant life other than marine mammals and birds.

(12) "Fishing" means—

(A) the catching, taking, or harvesting of fish, or any other activity that can reasonably be expected to result in the catching, taking, or harvesting of fish; or

(B) any operation at sea in preparation for or in direct support of any activity described in subparagraph (A).

(13) "Fishing vessel" means—

(A) any vessel engaged in catching fish within the Convention area or in processing or transporting fish loaded in the Convention area;

(B) any vessel outfitted to engage in any activity described in subparagraph (A); or

(C) any vessel in normal support of any vessel described in subparagraph (A) or (B).

(14) "Incidental taking" means catching, taking, or harvesting a species or stock of fish while conducting directed fishing for another species or stock of fish.

(15) "Party" means Canada, Japan, the Russian Federation, the United States, and any other nation that may accede to the Convention.

(16) "Secretary" means the Secretary of Commerce.

(17) "United States Section" means the United States Commissioners of the Commission.

UNITED STATES COMMISSIONERS

SEC. 804. (a) The United States shall be represented on the Commission by not more than three United States Commissioners to be appointed by and serve at the pleasure of the President. Each United States Commissioner shall be appointed for a term of office not to exceed four years, but is eligible for reappointment. Of the Commissioners who shall receive no compensation for their services as Commissioners—

(1) one shall be an official of the United States Government;

(2) one shall be a resident of the State of Alaska; and

(3) one shall be a resident of the State of Washington.

An individual is not eligible for appointment under paragraph (2) or (3) as a Commissioner unless the individual is knowledgeable or experienced concerning the anadromous stocks and ecologically related species of the North Pacific Ocean.

(b) The Secretary, in consultation with the Secretary of State, may designate from time to time Alternate United States Commissioners to the Commission. An Alternate United States Commissioner may exercise all designated powers and duties of a United States Commissioner in the absence of a duly designated Commissioner for whatever reason. The number of such Alternate United States Commissioners that may be designated for any such meeting shall be limited to the number of authorized United States Commissioners that will not be present.

(c) The United States Section, in consultation with the Advisory Panel established in section 805 shall identify and recommend to the Commission research needs and priorities for anadromous stocks and ecologically related species subject to the Convention, and oversee the United States research programs involving such fisheries.

ADVISORY PANEL

SEC. 805. (a) An advisory Panel to the United States Section shall be composed of:

(1)(A) The Commissioner of the Alaska Department of Fish and Game.

(B) The Director of the Washington Department of Fisheries.

(C) One representative of the Pacific States Marine Fisheries Commission, designated by the Executive Director of that commission.

(2) Eleven members (six of whom shall be residents of the State of Alaska and five of whom shall be residents of the State of Washington), appointed by the Secretary, in consultation with the Secretary of State, from among a slate of twelve persons nominated by the Governor of Alaska and a slate of ten persons nominated by the Governor of Washington.

(b) Persons appointed to the Advisory Panel shall be individuals who are knowledgeable or experienced concerning anadromous stocks and ecologically related species. In submitting a slate of nominees pursuant to subsection (a)(2), the Governors of Alaksa and Washington shall seek to represent the broad range of parties interested in anadromous stocks and ecologically related species, and at a minimum shall include on each slate at least one representative of commercial salmon fishing interests and of environmental interests concerned with protection of living marine resources.

(c) Any person appointed to the Advisory Panel pursuant to subsection (a)(2) shall serve for a term not to exceed four years, and may not serve more than two consecutive terms.

(d) The Advisory Panel shall be invited to all nonexecutive meetings of the United States Section and at such meetings shall be granted the opportunity to examine and to be heard on all proposed programs of study and investigation, reports, and recommendations of the United States Section.

(e) The members of the Advisory Panel shall receive no compensation or travel expenses for their services as such members.

COMMISSION RECOMMENDATIONS

SEC. 806. The Secretary of State, with the concurrence of the Secretary, may accept or reject, on behalf of the United States, recommendations made by the Commission in accordance with article IX of the Convention.

ADMINISTRATION AND ENFORCEMENT OF CONVENTION

SEC. 807. (a) The Secretary shall be responsible for administering provisions of the Convention, this title, and regulations issued under this title. The Secretary of State, in consultation with the Secretary and the Secretary of the Department in which the Coast Guard is operating, shall be responsible for coordinating the participation of the United States in the Commission.

(b) In carrying out such functions, the Secretary—

(1) shall, in consultation with the Secretary of the department in which the Coast Guard is operating and the United States Section, adopt such regulations as may be necessary to carry out the purposes and objectives of the Convention and this title; and

(2) may, with the concurrence of the Secretary of State, cooperate with the authorized officials of the government of any party to the Convention.

COOPERATION WITH OTHER AGENCIES

SEC. 808. (a) Any agency of the Federal Government is authorized, upon request, of the Commission, to cooperate in the conduct of scientific and other programs, and to furnish, on a reimbursable basis, facilities and personnel for the purpose of assisting the Commission in carrying out its duties under the Convention. Such agency may accept reimbursement from the Commission.

(b) In carrying out the provision of the Convention and this title, the Secretary may arrange for cooperation with agencies of the United States, the States, private institutions and organizations, and agencies of the government of any Party, to conduct scientific and other programs, and may execute such memoranda as may be necessary to reflect such agreements.

ENFORCEMENT PROVISIONS

SEC. 809. (a) This title shall be enforced by the Secretary and the Secretary of the department in which the Coast Guard is operating. Such Secretaries may by agreement utilize, on a reimbursable basis or otherwise, the personnel, services, equipment (including

aircraft and vessels), and facilities of any other Federal agency, including all elements of the Department of Defense, and of any State agency, in the performance of such duties. Such Secretaries shall, and the head of any Federal or State agency that has entered into an agreement with either such Secretary under the preceding sentence may (if the agreement so provides), authorize officers to enforce the provisions of the Convention, this title, and regulations adopted under this title: *Provided*, That any such agreement or contract entered into pursuant to this section shall be effective only to such extent or in such amounts as are provided in advance in appropriation Acts.

(b) The district courts of the United States shall have exclusive jurisdiction over any case or controversy arising under the provisions of this title.

(c) Authorized officers may, within the exclusive economic zone—

(1) with or without a warrant or other process—

(A) arrest any person, if he has reasonable cause to believe that such person has committed a act prohibited by section 810 of this Act;

(B) board, and search or inspect, any fishing vessel subject to the provisions of the Convention and this title;

(C) seize any fishing vessel (together with its fishing gear, furniture, appurtenances, stores, and cargo) used or employed in, or with respect to which it reasonably appears that such vessel was used or employed in, the violation of any provision of the Convention, this title, or any regulation adopted under this title;

(D) seize any fish (wherever found) taken or retained in violation of any provision referred to in subparagraph (C);

(E) seize any other evidence related to any violation of any provision referred to in subparagraph (C);

(2) execute any warrant or other process issued by any court of competent jurisdiction; and

(3) exercise any other lawful authority.

(d)(1) An authorized officer may in the Convention area—

(A) board a vessel of any Party that reasonably can be believed to be engaged in directed fishing for, incidental taking of, or processing anadromous species, and, without warrant or process, inspect equipment, logs, documents, catch, and other articles, and question persons on board the vessel, for the purpose of carrying out the provisions of the Convention, this title, or any regulation adopted under this title; and

(B) if any such vessel or person on board is actually engaged in operations in violation of any such provision, or there is reasonable ground to believe any person or vessel was obviously so engaged before the boarding of such vessel by the authorized officer, arrest or seize such person or vessel and further investigate the circumstance if necessary.

If an authorized officer, after boarding and investigation, has reasonable cause to believe that any such fishing vessel or person engaged in operations in violation of any provision referred to in subparagraph (A), the officer shall deliver the vessel or person as promptly as practicable to the enforcement officers of the appropriate Party, in accordance with the provisions of the Convention.

(2) When requested by the appropriate authorities of a Party, an authorized officer may be directed to attend as a witness, and to produce such available records and files or duly certified copies thereof as may be necessary, for the prosecution by that Party of any violation of the provisions of the Convention or any law of that Party relating to the enforcement thereof.

UNLAWFUL ACTIVITIES

SEC. 810. It is unlawful for any person or fishing vessel subject to the jurisdiction of the United States—

(1) top fish for any anadromous fish in the Convention area;

(2) to retain on board any anadromous fish taken incidentally in a fishery directed at nonanadromous fish in the Convention area;

(3) to fail to return immediately to the sea any anadromous fish taken incidentally in a fishery directed at nonanadromous fish in the Convention area;

(4) to ship, transport, offer for sale, sell, purchase, import, export, or have custody, control, or possession of, any anadromous fish taken or retained in violation of the Convention, this title or any regulation adopted under this title;

(5) to refuse to permit any enforcement officer to board a fishing vessel subject to such person's control for purposes of conducting any search or inspection in connection with the enforcement of the Convention, this title, or any regulation adopted under this title;

(6) to forcibly assault, resist, oppose, impede, intimidate, or interfere with any enforcement officer in the conduct of any search or inspection described in paragraph (5);

(7) to resist a lawful arrest or detection for any act prohibited by this section;

(8) to interfere with, delay, or prevent, by any mans, the apprehension, arrest, or detection of another person, knowing that such person has committed any act prohibited by this section; or

(9) to violate any provision of the Convention, this title, or any regulation adopted under this title.

PENALTIES

SEC. 811. (a)(1) Any person who is found by the Secretary, after notice and opportunity for a hearing in accordance with section 554 of title 5, United States Code, to have committed an act prohibited by section 810 shall be liable to the United States for a civil penalty. The amount of the civil penalty shall not exceed $100,000 for each violation. Each day of a continuing violation shall constitute a separate offense. The amount of such civil penalty shall be assessed by the Secretary, or his designee, by written notice. In determining the amount of such penalty, the Secretary shall take into account the nature, circumstances, extent, and gravity of the prohibited acts committed and, with respect to the violation, the degree of culpability, any history of prior offenses, ability to pay, and such other matters as justice may require.

(2) Any person against whom a civil penalty is assessed under paragraph (1) may obtain review thereof in the appropriate court of the United States by filing a complaint in such court within thirty days from the date of such order and by simultaneously serving a copy of such complaint by certified mail on the Secretary, the Attorney General, and the appropriate United States Attorney. The Secretary shall promptly file in such court a certified copy of the record upon which such violation was found or such penalty imposed, as provided in section 2112 of title 28, United States Code. The findings and order of the Secretary shall be set aside by such court if they are not found to be supported by substantial evidence, as provided in section 706(2) of title 5, United States Code.

(3) If any person fails to pay an assessment of a civil penalty after it has become a final and unappealable order, or after the appropriate court has entered final judgment in favor of the Secretary, the Secretary shall refer the matter to the Attorney General of the United States, who shall recover the amount assessed in any appropriate district court of the United States. In such action, the validity and appropriateness of the final order imposing the civil penalty shall not be subject to review.

(4) A fishing vessel (including its fishing gear, furniture appurtenances, stores, and cargo) used in the commission of an act prohibited by section 810 shall be liable in rem for any civil penalty assessed for such violation under paragraph (1) and may be proceeded against in any district court of the United States having jurisdiction thereof. Such penalty shall constitute a maritime lien on such vessel that may be recovered in an action in rem in the district court of the United States having jurisdiction over the vessel.

(5) The Secretary may compromise, modify, or remit, with or without conditions, any civil penalty that is subject to imposition or that has been imposed under this section.

(6) For the purposes of conducting any hearing under this section, the Secretary may issue subpoenas for the attendance and testimony of witnesses and the production of relevant papers, books, and documents, and may administer oaths. Witnesses summoned shall be paid the same fees and mileage that are paid to witnesses in the courts of the United States. In case of contempt or refusal to obey a subpoena served upon any person pursuant to this paragraph, the district court of the United States for any district in which such person is found, resides, or transacts business, upon application by the United States and after notice to such person, shall have jurisdiction to issue an order requiring such person to appear and give testimony before the Secretary or to appear and produce documents before the Secretary, or both, and any failure to obey such order of the court may be punished by such court as a contempt thereof.

(b)(1) A person is guilty of an offense if he commits any act prohibited by section 810(e), (f), (g), or (h).

(2) Any offense described in paragraph (1) is punishable by a fine or not more than $100,000, or imprisonment for not more than six months, or both; except that if in the commission of any offense the person uses a dangerous weapon, engages in conduct that causes bodily injury to any enforcement officer, or places any such officer in fear of imminent bodily injury, the offense is punishable by a fine of not more than $200,000, or imprisonment for not more than ten years, or both.

(c)(1) Any fishing vessel (including its fishing gear, furniture, appurtenances, stores, and cargo) used, and any fish (or a fair market value thereof) taken or retained, in any manner, in connection with or as a result of the commission of any act prohibited by section 810 shall be subject to forfeiture to the United States. All or part of such vessel may, and all such fish shall, be forfeited to the United States pursuant to a civil proceeding under this section.

(2) Any district court of the United States shall have jurisdiction, upon application of the Attorney General on behalf of the United States, to order any forfeiture authorized under paragraph (1) and any action provided for under paragraph (4).

(3) If a judgment is entered for the United States in a civil forfeiture proceeding under this section, the Attorney General may seize any property or other interest declared forfeited to the United States, which has not previously been seized pursuant to this title or for which security has not previously been obtained. The provisions of the customs laws relating to—

(A) the seizure, forfeiture, and condemnation of property for violation of the customs law;

(B) the disposition of such property or the proceeds from the sale thereof; and

(C) the remission or mitigation of any such forfeiture;

shall apply to seizures and forfeitures incurred, or alleged to have been incurred, under the provisions of this title, unless such provisions are inconsistent with the purposes, policy, and provisions of this title.

(4)(A) Any officer authorized to serve any process in rem that is issued by a court having jurisdiction under section 809(b) shall—

(i) stay the execution of such process; or

(ii) discharge any fish seized pursuant to such process;

upon receipt of a satisfactory bond or other security from any person claiming such property. Such bond or other security shall be conditioned upon such person delivering such property to the appropriate court upon order thereof, without any impairment of its value, or paying the monetary value of such property pursuant to an order of such court. Judgment shall be recoverable on such bond or other security against both the principal and any sureties in the event that any condition thereof is breached, as determined by such court.

(B) Any fish seized pursuant to this title may be sold, subject to the approval and direction of the appropriate court, for not less than the fair market value thereof. The proceeds of any such sale shall be deposited with such court pending the disposition of the matter involved.

(5) For purposes of this section, it shall be a rebuttable presumption that all fish found on board a fishing vessel and which is seized in connection with an act prohibited by section 810 were taken or retained in violation of the Convention and this title.

FUNDING REQUIREMENTS

SEC. 812. (a) There is hereby authorized to be appropriated from time to time such sums as may be necessary for carrying out the purposes and provisions of the Convention and this title, including—

(1) necessary travel expenses of the United States Commissioners or Alternate Commissioners; and

(2) the United States' share of the joint expenses of the Commission.

(b) Such funds as shall be made available to the Secretary for research and related activities shall be expended to carry out the program of the Commission in accordance with the recommendations of the United States Section and to carry out other research and observer programs pursuant to the Convention.

DISPOSITION OF PROPERTY

SEC. 813. The Secretary of State shall dispose of any United States property held by the International North Pacific Fisheries Commission on the date of its termination in a manner that would further the purposes of this title.

REPEAL OF THE NORTH PACIFIC FISHERIES ACT OF 1954

SEC. 814. The Act of August 12, 1954 (16 U.S.C. 1021–1035) is repealed.

EMPLOYMENT AND BUSINESS OPPORTUNITIES FOR INDIANS

INOUYE AMENDMENT NO. 2945

Mr. MITCHELL (for Mr. INOUYE) proposed an amendment to the bill (S. 3118) to increase employment and business opportunities for Indians, and for other purposes, as follows:

In section 3(f)(1) of the committee substitute, strike out "$50,000" and insert in lieu thereof "$1,000".

REGULATION OF INVESTMENT ADVISORS

GRAMM AMENDMENT NO. 2946

Mr. DOLE (for Mr. GRAMM) proposed an amendment to the bill (S. 2266) to provide for recovery of costs of supervision and regulation of investment advisors and their activities, and for other purposes, as follows:

On page 12, strike "and" and, on page 13, strike line 2 and insert in lieu thereof the following:

"sets; and

""(E) the results, findings, and conlusions of the study required by paragraph (3).

""(3) Before implementing paragraph (1), the Commission shall study (and shall make such study and its conclusions and findings available to the public)—

""(A) the availability of fidelity bonds, both for large-scale and small-scale investment advisers, and also for investment advisers not located in urban areas; and

""(B) the impact of the provisions of paragraph (1) on the competitive position of small-scale investment advisers.".".

Page 9, line 18, strike out the word "include" and insert the word "be".

EXPORT PROMOTION ACT

SARBANES (AND OTHERS) AMENDMENT NO. 2947

Mr. MITCHELL (for Mr. SARBANES, for himself, Mr. RIEGLE, Mr. GRAN, and Mr. MACK) proposed an amendment to the bill (S. 2864) to reauthorize the Export-Import Bank Act of 1945, to encourage export promotion, and for other purposes; as follows:

On page 33, line 9, insert ", including the agencies whose representatives are members of the Environmental Trade Working Group of the Trade Promotion Coordinating Committee," after "agencies".

On page 35, strike lines 1 through 4.

On page 35, line 5, strike "(D)" and insert "(C)".

On page 50, line 9, strike "and".

On page 50, between lines 9 and 10, insert the following:

(5) in conjunction with the Director of the Office of Management and Budget, propose to the President annually a unified Federal trade promotion budget that supports the plan for priority activities and improved coordination established under paragraph (3) and eliminates funding for the areas of overlap and duplication identified under paragraph (4); and

On page 50, line 10, strike "(5)" and insert "(6)".

On page 51, between lines 9 and 10, insert the following:

(e) MEMBER QUALIFICATIONS.—Members of the TPCC shall be appointed by the heads of their respective departments or agencies. Such members, as well as alternates designated by any members unable to attend a meeting of the TPCC, shall be individuals who exercise significant decisionmaking authority in their respective departments or agencies.

On page 51, line 10, strike "(e)" and insert "(f)".

On page 52, line 13, insert "and export finance institutions" after "exporters".

On page 52, line 17, insert "and export finance institutions" after "exporters".

On page 53, between lines 8 and 9, insert the following:

SEC. 204. ENVIRONMENTAL TRADE PROMOTION.

(a) ENVIRONMENTAL TRADE WORKING GROUP OF THE TRADE PROMOTION COORDINATION COMMITTEE.—

(1) ESTABLISHMENT AND PURPOSE.—The President shall establish the Environmental Trade Promotion Working Group (hereafter referred to as the "Working Group") as a subcommittee of the Trade Promotion Coordination Committee. The purpose of the Working Group shall be to address all issues with respect to the export promotion and export financing of United States environmental technologies, goods, and services.

(2) MEMBERSHIP.—The members of the Working Group shall be—

(A) representatives of the agencies that are represented on the Trade Promotion Coordination Committee; and

(B) a representative of the Environmental Protection Agency.

(3) CHAIRPERSON.—The Secretary of Commerce shall designate the chairperson of the Working Group from among senior employees of the Department of Commerce. The chairperson shall—

(A) assess the effectiveness of United States Government programs for the promotion of exports of environmental technologies, goods, and services;

(B) recommend improvements to such programs, including regulatory changes or additional authority that may be necessary to improve the promotion of exports of environmental technologies, goods, and services;

(C) ensure that the members of the Working Group coordinate their environmental trade promotion programs, including feasibility studies, technical assistance, business information services, and export financing; and

(D) assess, jointly with the Working Group representative of the Environmental Protection Agency, the extent to which the environmental trade promotion programs of the Working Group advance the environmental goals established in "Agenda 21" by the United Nations Conference on Environment and Development at Rio de Janeiro, and in other international environmental agreements.

(4) REPORT TO CONGRESS.—The chairperson of the Trade Promotion Coordination Committee shall include a report on the activities of the Environmental Trade Working Group as a part of the annual report submitted to the Congress by the Trade Promotion Coordination Committee.

(b) ENVIRONMENTAL TRADE PROMOTION BY THE DEPARTMENT OF COMMERCE.—The Export Enhancement Act of 1988 (15 U.S.C. 4721 et seq.) is amended by adding at the end the following new section:

"SEC. 2312. ENVIRONMENTAL TRADE PROMOTION.

"(a) STATEMENT OF POLICY.—It is the policy of the United States to foster the export of United States environmental technologies, goods, and services. In exercising its powers and functions, the Department shall encourage and support sales of such technologies, goods, and services.

"(b) TRADE PROMOTION COORDINATION COMMITTEE.—The chairperson of the Environmental Trade Working Group of the Trade Promotion Coordinating Committee, established under section 204(a) of the Export Enhancement Act of 1992, shall—

"(1) advise the Secretary and other employees of the Department on ways to promote the export of United States environmental technologies, goods, and services; and

"(2) serve as a liaison between the Department and other agencies that are members of the Environmental Trade Working Group.

"(c) TRADE INFORMATION.—In support of the work of the Environmental Trade Working Group, the Department shall, as part of its regular market survey and information services activities, make available to United States providers of environmental technologies, goods, and services—

"(1) survey information on existing and emerging market trends for environmental technologies, goods, and services; and

"(2) a description of the export promotion programs for environmental technologies, goods, and services of the agencies that are represented on the Environmental Trade Working Group.

"(d) OVERSEAS SERVICES FOR EXPORTERS.—

"(1) AUTHORIZATION.—The Secretary is authorized to designate a Foreign Commercial Service officer to serve as the Environmental Export Assistance Officer in any country—

"(A) whose companies are important competitors for United States exports of environmental technologies, goods, and services; or

"(B) that offers promising markets for such exports.

"(2) DUTIES.—The officer designated under paragraph (1) shall provide export promotion assistance to United States companies, including—

"(A) assessment of government assistance provided to producers of environmental technologies, goods, and services in such countries, the effectiveness of such assistance on the competitiveness of United States products, and whether comparable United States assistance exists;

"(B) assistance in identifying potential customers and market opportunities in such countries;

"(C) assistance in obtaining necessary business services in such countries;

"(D) information on environmental standards and regulations in such countries; and

"(E) information on all United States Government programs that could assist the promotion, financing, and sale of exports of United States environmental technologies, goods, and services in such countries.".

On page 53, line 9, strike "204" and insert "205".

On page 53, line 14, strike "205" and insert "206".

On page 55, line 14, strike "206" and insert "207".

On page 49, delete lines 20 through 22 and conform paragraph numbers accordingly.

GROWTH OF TRAVEL AND TOURISM IN THE UNITED STATES

ROCKEFELLER (AND OTHERS) AMENDMENT NO. 2948

Mr. MITCHELL (for Mr. ROCKEFELLER, for himself, Mr. HOLLINGS, Mr. BURNS, and Mr. DANFORTH) proposed an amendment to the amendments of the House to the bill (S. 680) to amend the International Travel Act of 1961 to assist in the growth of international travel and tourism into the United States, and for other purposes, as follows:

In lieu of the matter proposed to be inserted by the House amendment to the bill, insert the following:

SECTION 1. SHORT TITLE; REFERENCE.

(a) SHORT TITLE.—This Act may be cited as the "Tourism Policy and Export Promotion Act of 1992".

(b) REFERENCE.—Whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the International Travel Act of 1961 (22 U.S.C. 2121 et seq.).

SEC. 2. FINDINGS.

The Congress finds that—

(1) the travel and tourism industry is the second largest retail or service industry in the United States;

(2) travel and tourism receipts make up over 6.7 percent of the United States gross national product;

(3) in 1991, the travel and tourism industry generated about 6 million jobs directly and about 2.5 million indirectly;

(4) travel and tourism expenditures in 1991 were approximately $352 billion;

(5) 42 million international visitors spent approximately $64.7 billion in the United States in 1991;

(6) travel and tourism services ranked as the largest United States business services export in 1991, providing a United States travel trade balance of $16.8 billion;

(7) many local communities with significant tourism potential are unable to realize the economic and employment opportunities that tourism provides because they lack the necessary local resources and expertise needed to induce tourism trade;

(8) increased efforts directed at the promotion of rural tourism will contribute to the economic development of rural America and further the conservation and promotion of natural, scenic, historic, scientific, educational, inspirational, and recreational resources for future generations of Americans and foreign visitors;

(9) foreign tourists entering the United States are frequently faced with unnecessary delays at the United States border;

(10) advanced technologies, industrial targeting, the industrialization of the Third World, and the flight of some United States manufacturing capacity to overseas locations have affected the international competitiveness of the United States;

(11) exporting those goods and services which United States industry can produce at a comparative cost advantage, such as travel and tourism services, will be in the Nation's long-term strategic interest; and

(12) the emergence of democratic governments in the formerly Communist nations of Eastern Europe and in the former Soviet Union provide new opportunities for United States firms engaged in both the inbound and outbound tourism markets.

SEC. 3. SURVEY OF INTERNATIONAL AIR TRAVELERS.

The Secretary of Commerce, to the extent available resources permit, shall improve the survey of international air travelers conducted to provide the data needed to estimate the Nation's balance of payments in international travel by—

(1) expanding the survey to cover travel to and from the Middle East, Africa, South America, and the Caribbean and enhancing coverage for Mexico, Oceania, the Far East, and Europe; and

(2) improving the methodology for conducting on-board surveys by (A) enhancing communications, training, and liaison activities in cooperation with participating air carriers, (B) providing for the continuation of needed data bases, and (C) utilizing improved sampling procedures.

The Secretary of Commerce shall seek to increase the reporting frequency of the data provided by Statistics Canada and the Bank of Mexico on international travel trade between the United States and both Canada and Mexico. The Secretary shall improve the quarterly statistical report on United States international travel receipts and payments published in the Bureau of Economic Analysis document known as "The Survey of Current Services" and heighten its visibility.

SEC. 4. RURAL TOURISM DEVELOPMENT FOUNDATION.

(a) ESTABLISHMENT OF FOUNDATION.—In order to assist in the development and promotion of rural tourism, there is established a charitable and nonprofit corporation to be known as the Rural Tourism Development Foundation (hereafter in this section referred to as the "Foundation").

(b) FUNCTIONS.—The functions of the Foundation shall be the planning, development, and implementation of projects and programs which have the potential to increase travel and tourism export revenues by attracting foreign visitors to rural America. Initially, such projects and programs shall include—

(1) participation in the development and distribution of educational and promotional materials pertaining to both private and public attractions located in rural areas of the United States, including Federal parks and recreational lands, which can be used by foreign visitors;

(2) development of educational resources to assist in private and public rural tourism development; and

(3) participation in Federal agency outreach efforts to make such resources available to private enterprises, State and local governments, and other persons and entities interested in rural tourism development.

(c) BOARD OF DIRECTORS.—

(1) COMPOSITION.—(A) The Foundation shall have a Board of Directors (hereafter in this section referred to as the "Board") that—

(i) during its first 2 years shall consist of nine voting members; and

(ii) thereafter shall consist of those nine members plus up to six additional voting members as determined in accordance with the bylaws of the Foundation.

(B)(i) The Under Secretary of Commerce for Travel and Tourism shall, within 6 months after the date of enactment of this Act, appoint the initial nine voting members of the Board and thereafter shall appoint the successors of each of three such members, as provided by such bylaws.

(ii) The voting members of the Board, other than those referred to in clause (i),

shall be appointed in accordance with procedures established by such bylaws.

(C) The voting members of the Board shall be individuals who are not Federal officers or employees and who have demonstrated an interest in rural tourism development. Of such voting members, at least a majority shall have experience and expertise in tourism trade promotion, at least one shall have experience and expertise in resource conservation, at least one shall have experience and expertise in financial administration in a fiduciary capacity, at least one shall be a representative of an Indian tribe who has experience and expertise in rural tourism on an Indian reservation, at least one shall represent a regional or national organization or association with a major interest in rural tourism development or promotion, and at least one shall be a representative of a State who is responsible for tourism promotion.

(D) Voting members of the Board shall each serve a term of 6 years, except that—

(i) initial terms shall be staggered to assure continuity of administration;

(ii) if a person is appointed to fill a vacancy occurring prior to the expiration of the term of the person's predecessor, that person shall serve only for the remainder of the predecessor's term; and

(iii) any such appointment to fill a vacancy shall be made within 60 days after the vacancy occurs.

(2) EX-OFFICIO MEMBERS.—The Under Secretary of Commerce for Travel and Tourism and representatives of Federal agencies with responsibility for Federal recreational sites in rural areas (including the National Park Service, Bureau of Land Management, Forest Service, Corps of Engineers, Bureau of Indian Affairs, Tennessee Valley Authority, and such other Federal agencies as the Board determines appropriate) shall be nonvoting ex-officio members of the Board.

(3) CHAIR.—The Chairman and Vice Chairman of the Board shall be elected by the voting members of the Board for terms of 2 years.

(4) MEETINGS.—The Board shall meet at the call of the Chairman and there shall be at least two meetings each year. A majority of the voting members of the Board serving at any one time shall constitute a quorum for the transaction of business. The Foundation shall have an official seal, which shall be judicially noticed. Voting membership on the Board shall not be deemed to be an office within the meaning of the laws of the United States.

(d) COMPENSATION AND EXPENSES.—No compensation shall be paid to the members of the Board for their services as members, but they may be reimbursed for actual and necessary traveling and subsistence expenses incurred by them in the performance of their duties as such members out of Foundation funds available to the Board for such purposes.

(e) ACCEPTANCE OF GIFTS, DEVISES, AND BEQUESTS.—

(1) IN GENERAL.—The Foundation is authorized to accept, receive, solicit, hold, administer, and use any gifts, devises, or bequests, either absolutely or in trust, of real or personal property or any income therefrom or other interest therein for the benefit of or in connection with rural tourism, except that the Foundation may not accept any such gift, devise, or bequest which entails any expenditure other than from the resources of the Foundation. A gift, devise, or bequest may be accepted by the Foundation even though it is encumbered, restricted, or subject to beneficial interests of private persons if any current or future interest therein is for the benefit of rural tourism.

(2) INDIANS.—A gift, devise, or bequest accepted by the Foundation for the benefit of or in connection with rural tourism on Indian reservations, pursuant to the Act of February 14, 1931 (25 U.S.C. 451), shall be maintained in a separate accounting for the benefit of Indian tribes in the development of tourism on Indian reservations.

(f) INVESTMENTS.—Except as otherwise required by the instrument of transfer, the Foundation may sell, lease, invest, reinvest, retain, or otherwise dispose of or deal with any property or income thereof as the Board may from time to time determine. The Foundation shall not engage in any business, nor shall the Foundation make any investment that may not lawfully be made by a trust company in the District of Columbia, except that the Foundation may make any investment authorized by the instrument of transfer and may retain any properly accepted by the Foundation.

(g) PERPETUAL SUCCESSION; LIABILITY OF BOARD MEMBERS.—The Foundation shall have perpetual succession, with all the usual powers and obligations of a corporation acting as a trustee, including the power to sue and to be sued in its own name, but the members of the Board shall not be personally liable, except for malfeasance.

(h) CONTRACTUAL POWER.—The Foundation shall have the power to enter into contracts, to execute instruments, and generally to do any and all lawful acts necessary or appropriate to its purposes.

(i) ADMINISTRATION.—

(1) IN GENERAL.—In carrying out the provisions of this section,the Board may adopt bylaws, rules, and regulations necessary for the administration of its functions and may hire officers and employees and contract for any other necessary services. Such officers and employees shall be appointed without regard to the provisions of title 5, United States Code, governing appointments in the competitive service and may be paid without regard to the provisions of chapters 51 and 53 of such title relating to classification and General Schedule pay rates.

(2) SERVICES.—The Secretary of Commerce may accept the voluntary and uncompensated services of the Foundation, the Board, and the officers and employees of the Foundation in the performance of the functions authorized under this section, without regard to section 1342 of title 31, United States Code, or the civil service classification laws, rules, or regulations.

(3) CONSTRUCTION—Neither an officer or employee hired under paragraph (1) nor an individual who provides services under paragraph (2) shall be considered a Federal employee for any purpose other than for purposes of chapter 81 of title 5, United States Code, relating to compensation for work injuries, and chapter 171 of title 28, United States Code, relating to tort claims.

(j) EXEMPTION FROM TAXES; CONTRIBUTIONS.—The Foundation and any income or property received or owned by it, and all transactions relating to such income or property, shall be exempt from all Federal, State, and local taxation with respect thereto. The Foundation may, however, in the discretion of the Board, contribute toward the costs of local government in amounts not in excess of those which it would be obligated to pay such government if it were not exempt from taxation by virtue of this subsection or by virtue of its being a charitable and nonprofit corporation and may agree so to contribute with respect to property transferred to it and the income derived therefrom if such agreement is a condition of the transfer. Contributions, gifts, and other transfers made to or for the use of the foundation shall be regarded as contributions, gifts, or transfers to or for the use of the United States.

(k) LIABILITY OF UNITED STATES.—The United States shall not be liable for any debts, defaults, acts, or omissions of the Foundation.

(l) ANNUAL REPORT.—The Foundation shall, as soon as practicable after the end of each fiscal year, transmit to the Committee on Commerce, Science and Transportation of the Senate and the Committee on Energy and Commerce of the House of Representatives an annual report of its proceedings and activities, including a full and complete statement of its receipts, expenditures, and investments.

(m) DEFINITIONS.—As used in this section—

(1) the term "Indian reservation" has the meaning given the term "reservation" in section 3(d) of the Indian Financing Act of 1974 (25 U.S.C. 1452(d));

(2) the term "Indian tribe" has the meaning given that term in section 4(e) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b(e));

(3) the term "local government" has the meaning given that term in section 3371(2) of title 5, United States Code; and

(4) the term "rural tourism" has the meaning given that term by the Secretary of Commerce and shall include activities related to travel and tourism that occur on Federal recreational sites, on Indian reservations, and in the territories, possessions, and commonwealths of the United States.

(n) ASSISTANCE BY SECRETARY OF COMMERCE.—Section 202(a) of the International Travel Act of 1961 (22 U.S.C. 2123(a)) is amended by striking paragraph (15) and inserting in lieu thereof the following new paragraph:

"(15) may assist the Rural Tourism Development Foundation, established under section 4 of the Tourism Policy and Export Promotion Act of 1992, in the development and promotion of rural tourism.".

SEC. 5. POLICY CLARIFICATIONS.

Section 101(b) (22 U.S.C. 2121(b)) is amended—

(1) by amending paragraph (1) to read as follows:

"(1) optimize the contributions of the tourism and recreation industries to the position of the United States with respect to international competitiveness, economic prosperity, full employment, and the balance of payments;";

(2) by redesignating paragraphs (2) through (12) as paragraphs (6) through (16), respectively; and

(3) by inserting immediately after paragraph (1) the following new paragraphs:

"(2) Increase United States export earnings from United States tourism and transportation services traded internationally;

"(3) ensure the orderly growth and development of tourism;

"(4) coordinate and encourage the development of the tourism industry in rural communities which—

"(A) have been severely affected by the decline of agriculture, family farming, or the extraction or manufacturing industries, or by the closing of military bases; and

"(B) have the potential necessary to support and sustain an economy based on tourism;

"(5) promote increased and more effective investment in international tourism by the

States, local governments, and cooperative tourism marketing programs;".

SEC. 6. DUTIES OF THE SECRETARY OF COMMERCE.

(a) DUTIES OF SECRETARY.—Section 201 (22 U.S.C. 2122) is amended—

(1) by redesignating paragraphs (2) through (6) as paragraphs (3) through (7), respectively;

(2) in paragraph (3) (as so redesignated) by striking "tourist facilities," and all that follows and inserting in lieu thereof the following: "receptive, linguistic, informational, currency exchange, meal, and package tour services required by the international market;"

(3) by inserting immediately after paragraph (1) the following:

"(2) provide export promotion services that will increase the number of States, local governments (as defined in section 3371(2) of title 5, United States Code), and companies in the United States that sell their tourism services in the international market, expand the number of foreign markets in which exporting States, cities, and companies are active, and inform States, cities, and companies in the United States regarding the specialized services the international market requires;"; and

(4) by striking the period at the end of paragraph (7) (as so redesignated) and inserting in lieu thereof the following: "and the use of other United States providers of travel products and services; and"; and

(5) by inserting immediately after such paragraph (7) the following new paragraph:

"(8) advise and provide information and technical assistance to United States firms seeking to facilitate travel to and from the emerging democracies of Eastern Europe and the former Soviet Union and compile statistics, as available, regarding such travel.".

(b) PERFORMANCE OF DUTIES.—Section 202(a) (22 U.S.C. 2123(a)) is amended—

(1) by amending paragraph (5) to read as follows:

"(5) shall provide financial assistance under section 203 to cooperative tourism marketing programs;";

(2) in paragraph (9), by striking "United States travel and tourism interests" and inserting in lieu thereof "the United States national tourism interest"; and

(3) in paragraph (12), by inserting immediately before the semicolon at the end the following: "and the use of other United States providers of travel products and services".

(c) TECHNICAL AND CONFORMING AMENDMENTS.—Section 202 (22 U.S.C. 2123) is amended—

(1) in the first sentence of subsection (c), by striking "paragraph (5) of subsection (a)" and inserting in lieu thereof "section 203";

(2) in the second sentence of subsection (c), by striking "paragraph" and inserting in lieu thereof "subsection";

(3) in the third sentence of subsection (c), by striking "paragraph (5) of subsection (a) of this section" and inserting in lieu thereof "section 203"; and

(4) in subsection (d), by striking "paragraph (5) of subsection (a) of this section" and inserting in lieu thereof "section 203".

SEC. 7. TOURISM TRADE DEVELOPMENT.

Section 202 (22 U.S.C. 2123) is amended by adding at the end the following new subsection:

"(e)(1) The Secretary's tourism trade development efforts shall focus on the markets which have the greatest potential for increasing travel and tourism revenues.

"(2) By October 1 of each year (commencing October 1, 1993), the Secretary shall publish a notice in the Federal Register soliciting comment, from persons interested in tourism trade, concerning markets that would be an appropriate focus of tourism trade development efforts to be carried out in the 12-month period that begins 12 months after the notice is published.

"(3) Not later than 3 months after the notice is published under paragraph (2), the Secretary shall select the markets that the Secretary determines are an appropriate focus of tourism trade development efforts to be carried out in the 12-month period described in paragraph (2). The selection shall be announced by publication in the Federal Register.

"(4) At the same time the Secretary announces the selection of markets under paragraph (3), the Secretary shall issue a request for proposals from cooperative tourism marketing programs to develop and implement tourism trade development programs applicable to the markets so selected. The Secretary shall provide financial assistance in accordance with section 203 to carry out proposals submitted under this subparagraph. Such financial assistance shall be provided on or before September 30 of the year in which the markets are selected under paragraph (3).

"(5) During each 12-month period described in paragraph (2), tourism trade development efforts shall be directed at the markets selected under paragraph (3).".

SEC. 8. TOURISM MARKETING PROGRAMS.

(a) FINANCIAL ASSISTANCE.—Sections 203 and 204 (22 U.S.C. 2123a and 2123b) are repealed and the following new section is inserted immediately after section 202:

"SEC. 203. (a) The Secretary shall provide financial assistance to cooperative tourism marketing programs in accordance with this section.

"(b)(1) To be eligible for financial assistance under subsection (a), a cooperative tourism marketing program shall, at a minimum—

"(A) involve the participation of—

"(i) two or more States;

"(ii) one or more States and one or more political subdivisions of States; or

"(iii) one or more States and one or more nonprofit organizations;

"(B) be established for the purpose of increasing the number of foreign visitors to the region in which such States or local governments are located; and

"(C) have a written regional tourism marketing plan which includes advertising, publication of promotional materials, or other promotional or market research activities designed to increase the number of foreign visitors to such region.

"(2) Financial assistance may be provided under subsection (a) if the applicant for the assistance demonstrates to the satisfaction of the Secretary that the assistance will be used for a purpose described in subsection (c) and that—

"(A) such cooperative tourism marketing program for which the financial assistance will be provided will increase the travel of foreign visitors to the region for which the assistance is sought;

"(B) such program will contribute to the economic well-being of such region;

"(C) such region is developing or has developed a regional transportation system that will enhance travel to the facilities and attractions in such region; and

"(D) such program will focus its efforts on the countries in the markets selected by the Secretary under section 202(e)(3).

"(c) Financial assistance provided under subsection (a) may be used for the purpose of—

"(1) promoting on marketing to foreign visitors or potential foreign visitors the tourism and recreational opportunities in the region for which such financial assistance is sought

"(2) targeting foreign visitors to develop or enhance their interest in tourism and recreational opportunities in such region;

"(3) encouraging the development by such cooperative tourism marketing program of regional strategies for international tourism promotion and marketing; or

"(4) developing and implementing tourism trade development programs applicable to markets selected under section 202(e)(3).

"(d) In connection with financial assistance provided under subsection (a), a cooperative tourism marketing program may enter into agreements with individuals and private profit and nonprofit businesses and organizations who will assist in carrying out the purposes for which such financial assistance is provided. Such an agreement shall be disclosed in any application for financial assistance under subsection (a) and such an application may be approved by the Secretary only if the Secretary finds that such agreement meets all applicable legal requirements and is consistent with the purposes of this Act.

"(e) After notice and opportunity for public comment and within 180 days after the date of enactment of the Tourism Policy and Export Promotion Act of 1992, the Secretary shall issue rules and guidelines to carry out this section. Proposed rules and guidelines shall be issued within 90 days after such date of enactment.

"(f)(1) The total amount of financial assistance that may be provided under subsection (a) shall, in each of the fiscal years 1994, 1995, and 1996, be not less than 25 percent of the amount appropriated to the Secretary for such fiscal year under section 304.

(2) Not more than 50 percent of the financial assistance provided under subsection (a) for any fiscal year may be used for tourism trade development designed to promote travel and tourism in the United States generally without promotion of a particular area of the United States. Cooperative tourism marketing programs receiving financial assistance under subsection (a) shall pool 50 percent of their financial assistance for such general tourism trade development in each market selected by the Secretary under section 202(e)(3). The Secretary shall provide technical assistance to recipients of such financial assistance and coordinate such efforts.".

(b) Federal Share of Project Costs.—The first sentence of section 202(c) (22 U.S.C. 2123(c)) is amended by striking all after "sources" and inserting in lieu thereof a period and the following new sentence: "Any recipient of financial assistance under section 203 shall provide matching funds (consisting of actual dollar expenditures on the program for which such financial assistance is provided) equal to at least 25 percent of such financial assistance.".

SEC. 9. TOURISM TRADE BARRIERS.

Title II (22 U.S.C. 2122 et seq.), as amended by section 8 of this Act, is further amended by adding at the end the following new section:

"Sec. 204. For each calendar year beginning with calendar year 1994, the Secretary shall—

"(1) identify and analyze acts, policies, or practices of each foreign country that constitute significant barriers to, or distortions of, United States travel and tourism exports;

"(2) make an estimate of the trade-distorting impact on United States commerce of

any act, policy, or practice identified under paragraph (1); and

"(3) make an estimate, if feasible, of the value of additional United States travel and tourism exports that would have been exported to each foreign country during such calendar year if each of such acts, policies, and practices of such country did not exist.".

SEC. 10. ACTION TO FACILITATE ENTRY OF FOREIGN TOURISTS.

Title II (22 U.S.C. 2122 et seq.), as amended by section 9, is further amended by adding at the end the following new section:

"Sec. 205. The Secretary shall, in coordination with appropriate Federal agencies, take appropriate action to ensure that foreign tourists are not unnecessarily delayed when entering the United States and to ensure that the international processing standard of the International Civil Aviation Organization is met.".

SEC. 11. PERFORMANCE OF THE UNITED STATES TRAVEL AND TOURISM ADMINISTRATION.

Title II (22 U.S.C. 2122 et seq.), as amended by section 10 of this Act, is further amended by adding at the end the following:

"Sec. 206.(a) Beginning October 1, 1994, and annually thereafter, the Secretary shall submit to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Energy and Commerce of the House of Representatives the goals of the United States Travel and Tourism Administration for the applicable forthcoming fiscal year, including quantifiable measures on which such Administration's performance can be evaluated. Such goals shall include—

"(1) the number of written and telephone inquiries regarding the possibility of foreign travel to the United States expected to be generated by the financial assistance provided to cooperative tourism marketing programs under section 203;

"(2) the number of tour packages for foreign visitors to the United States expected to be sold in connection with such financial assistance;

"(3) the number of tourists from countries in markets selected under section 202(e)(3) expected to visit the United States destinations being promoted in such countries in connection with such financial assistance; and

"(4) the actions recommended to eliminate acts, policies, and practices of foreign countries identified under section 204 that constitute significant barriers to or distortions of United States travel and tourism exports.

"(b) By December 31, 1995, and annually thereafter, the Secretary shall submit to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Energy and Commerce of the House of Representatives a report outlining the degree to which the goals set forth for the prior fiscal year have been attained. Such report shall include—

"(1) the number of written and telephone inquiries regarding the possibility of foreign travel to the United States actually received by the Secretary and by persons receiving financial assistance under section 203;

"(2) the number of tour packages for foreign visitors to the United States actually sold in connection with such financial assistance;

"(3) the number of tourists from countries in markets selected under section 202(e)(3) that actually visited the United States destinations being promoted in such countries in connection with such financial assistance;

"(4) an evaluation of the effectiveness of such financial assistance; and

"(5) an evaluation of the effectiveness of any actions recommended under subsection (a)(4) which were taken to eliminate acts, policies, and practices that constitute significant barriers to, or distortions of, United States travel and tourism exports.

"(c) The Secretary shall collect from persons receiving financial assistance under section 203 such information as may be necessary to enable the Secretary to comply with subsections (a) and (b). The Secretary may condition the receipt of such financial assistance on the agreement of the recipient to provide such information to the Secretary at such times and in such manner and form as the Secretary deems appropriate".

SEC. 12. ADMINISTRATION.

Section 301(a) (22 U.S.C. 2124(a)) is amended—

(1) by striking the third and fourth sentences;

(2) by inserting "(1)" immediately after "(a)"; and

(3) by adding at the end the following new paragraph:

"(2) The Secretary shall designate a Deputy Under Secretary for Tourism Trade Development who shall be drawn from, and serve as a member of, the career service. The Deputy Under Secretary shall have responsibility for—

"(A) facilitating the interaction between industry and government concerning tourism trade development;

"(B) directing and managing field operations;

"(C) directing program evaluation research and industry statistical search;

"(D) developing an outreach program to those communities with underutilized tourism potential to assist them in development of strategies for expansion of tourism trade;

"(E) implementing the program to provide financial assistance under section 203 in support of non-Federal tourism trade development activities; and

"(F) performing such other functions as the Under Secretary may assign.".

SEC. 13. COORDINATION.

Section 301 (22 U.S.C. 2124) is amended by adding at the end the following new subsection:

"(c) The Under Secretary of Commerce for Travel and Tourism shall continue to seek the assistance of the United States and Foreign Commercial Service and shall continue to be available to assist the United States Travel and Tourism Administration at locations identified by the Under Secretary, in consultation with the Director General of the United States and Foreign Commercial Service, as necessary to assist the Administration's foreign offices in stimulating and encouraging travel to the United States by foreign residents and in carrying out other powers and duties of the Secretary specified in section 202.".

SEC. 14. LIMITATION ON CERTAIN EXPENDITURES.

Section 301 (22 U.S.C. 2124), as amended by section 13, is further amended by adding at the end the following new subsection:

"(d) The expenditures for personnel compensation, rental payments, communications, utilities, miscellaneous charges, and equipment shall not exceed—

"(1) in fiscal year 1993, 55 percent of the amount appropriated to the Secretary under section 304;

"(2) in fiscal year 1994, 52 and ½ percent of the amount appropriated to the Secretary under section 304; and

"(3) in fiscal year 1995 and in subsequent fiscal years, 50 percent of the amount appropriated to the Secretary under section 304.".

SEC. 15. TOURISM POLICY COUNCIL.

(a) MEMBERSHIP.—Section 302(b)(1) (22 U.S.C. 2124a(b)(1)) is amended—

(1) by redesignating subparagraphs (H) and (I) as subparagraphs (O) and (P); and

(2) by inserting immediately after subparagraph (g) the following new subparagraphs:

"(H) the Secretary of Agriculture;

"(I) the Chairman of the Tennessee Valley Authority;

"(J) the Commanding General of the Corps of Engineers of the Army, within the Department of Defense;

"(K) the Administrator of the Small Business Administration;

"(L) the Commissioner of the Immigration and Naturalization Service;

"(M) the Chief Executive Officer of the National Railroad Passenger Corporation;

"(N) the Commissioner of Customs;".

(b) DETAILS.—Section 302(d) (22 U.S.C. 2124a(d)) is amended by adding at the end the following new paragraph:

"(4)(A) Every year, upon designation by the Secretary in accordance with subparagraph (B), up to three Federal departments and agencies represented on the Council shall each detail to the Council for that year one staff person and associated resources.

"(B) In making the designation referred to in subparagraph (A), the Secretary shall designate a different group of agencies and departments each year and shall not redesignate any agency or department until all the other agencies and departments represented on the Council have been designated the same number of years.".

SEC. 16. ADVISORY BOARD.

(a) MEMBERSHIP.—Section 303(a)(3) (22 U.S.C. 2124b(a)(3)) is amended—

(1) In subparagraph (A), by striking "and";

(2) in subparagraph (B), by striking "one shall be a representative of the States who is" and inserting in lieu thereof "two shall be representatives of the States who are" and by striking the period at the end and inserting in lieu thereof "; and"; and

(3) by adding at the end the following new subparagraph:

"(C) at least one shall be a representative of a city who is knowledgeable of tourism promotion.".

(b) TERMS.—The last sentence of section 303(b) (22 U.S.C. 2124b(b)) is amended by striking "two consecutive terms of three years each" and inserting in lieu thereof "six consecutive years of nine years in the aggregate".

(c) ADVICE.—The first sentence of section 303(f) (22 U.S.C. 2124b(f)) is amended by striking "and shall advise" and all that follows through "202(a)(15)".

SEC. 17. AUTHORIZATION OF APPROPRIATIONS.

Section 304 (22 U.S.C. 2126) is amended—

(1) in the first sentence, by inserting immediately before the period the following: ", not to exceed $21,000,000 for fiscal year 1993, not to exceed $22,500,000 for fiscal year 1994, not to exceed $24,000,000 for fiscal year 1995, and not to exceed $26,000,000 for fiscal year 1996"; and

(2) by striking the last two sentences and inserting in lieu thereof the following: "Funds appropriated under this section may be expended by the Secretary without regard to sections 501 and 3702 of title 44, United States Code. Funds appropriated under this section for the printing of travel promotional materials shall remain available for 2 fiscal years.".

SEC. 18. REPORT ON TOURISM AND TRAVEL ACTIVITIES.

The Secretary of Commerce shall, within 18 months after the date of the enactment of

this Act, report to the Committee on Commerce, Science and Transportation of the Senate and the Committee on Energy and Commerce of the House of Representatives on—

(1) the status of the actions required by section 3 and the desirability and feasibility of publishing international travel receipts and payments on a monthly basis;

(2) the Secretary's actions under section 201(8) of the International Travel Act of 1961 (as amended by section 6 of this Act), regarding the inbound and outbound tourism trade between the United States and emerging democracies of Eastern Europe and the former Soviet Union (including statistics, as available, on the number of inbound and outbound tourists, receipts from and expenditures by such tourists, receipts from and expenditures by such tourists, the number of tourists traveling into and out of Eastern Europe and the former Soviet Union on American carriers, and other relevant matters);

(3) the activities of the Department of Commerce and other Federal agencies to increase tourism opportunities for, and encourage travel by, disabled persons; and

(4) efforts undertaken under section 205 of the International Travel Act of 1961 (as amended by section 13 of this Act) to improve visitor facilitation and the effect on United States travel and tourism as a result of those improvements.

SEC. 19. REPORT ON FOREIGN OFFICES.

(a) REPORT BY SECRETARY.—The Secretary of Commerce shall, within 1 year after the date of enactment of this Act, transmit to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Energy and Commerce of the House of Representatives a report on the offices of the United States Travel and Tourism Administration located in foreign countries.

(b) CONTENTS.—The report required by subsection (a) shall include the following:

(1) DESCRIPTION OF OFFICES.—A description of each foreign office of the United States Travel and Tourism Administration, including the number of United States national employees, foreign national employees, and contract personnel who perform duties for the foreign office and a statement as to how many of each category of employees or personnel are part-time and fulltime.

(2) INFORMATION ON LOCAL LAWS.—Information on the laws of the country in which each foreign office is located. The information shall state the country's legal requirements concerning the termination or reassignment of employees or contract personnel, any actions altering the terms or conditions of employment that will result in a requirement to pay additional compensation to the affected employee, and the legally mandated duties to affected employees and contract personnel where an entire foreign office is closed after appropriate notice.

(3) EXISTING LEASES.—Information on all existing leases of office space (or space sharing arrangements with the United States embassy) applicable to each foreign office, including an analysis of the Secretary's ability to terminate such leases or other arrangements and the costs associated with such termination.

(4) COST REDUCTIONS AND MARKETING EFFICIENCIES.—Analysis of and recommendations for possible cost reductions and marketing efficiencies with respect to the activities of foreign offices, including the advantages and disadvantages of consolidating foreign office functions by establishing three regional offices of the United States Travel and Tourism Administration based in and responsible for the following respective geographic areas:

(A) Europe and Africa.

(B) Asia and the Pacific region.

(C) North America, South America, and the Caribbean region.

(5) ORGANIZATIONAL FLEXIBILITY.—Analysis and recommendations concerning methods for increasing organizational flexibility (particularly with respect to the establishment, operations, closing, and relocation of foreign offices) in response to changing market conditions, fiscal constraints, and policy conditions.

(c) DELAY IN CERTAIN ADMINISTRATIVE ACTIONS.—At offices of the United States Travel and Tourism Administration located in foreign countries—

(1) no new foreign national employees nor contract personnel may be hired, except for employees or contract personnel that directly replace foreign national employees or contract personnel; and

(2) no new leases of office space, nor renewals of existing leases for longer than 2 years, may be executed,

until 6 months after the report required by subsection (a) is received.

PRODUCT LIABILITY ACT
EXON AMENDMENT NO. 2949

(Ordered to lie on the table.)

Mr. EXON submitted an amendment intended to be proposed by him to the bill (S. 640) to regulate interstate commerce by providing for a uniform product liability law, and for other purposes, as follows:

Delete Sec. 305 and insert in lieu thereof the following:

WORKERS' COMPENSATION SUBROGATION STANDARDS

SEC. 305. (a)(1) An employer or workers' compensation insurer of an employer shall have a right of subrogation against a manufacturer or product seller to recover the sum of the amount paid as workers' compensation benefits and the present value of all workers' compensation benefits to which the employee is or would be entitled as determined by the appropriate workers' compensation authority for harm caused to an employee by a product if the harm is one for which a civil action has been brought pursuant to this Act. To assert a right of subrogation an employer or workers' compensation insurer of an employer shall provide written notice that it is asserting a right of subrogation to the court in which the claimant has filed a complaint. The employer or workers' compensation insurer of the employer shall not be required to be a necessary and proper party to the proceeding instituted by the employee.

(2) In any proceeding against or settlement with the manufacturer or product seller, the employer or the workers' compensation insurer of the employer shall have an opportunity to participate and to assert a right of subrogation upon any payment made by the manufacturer or product seller by reason of such harm, whether paid in settlement, in satisfaction of judgment, as consideration for covenant not to sue, or otherwise. The employee shall not make any settlement with or accept any payment from the manufacturer or product seller without the written consent of the employer and no release to or agreement with the manufacturer or product seller shall be valid or enforceable for any purpose without such consent. However, the preceding sentence shall not apply if the employer or workers' compensation insurer of the employer is made whole for all benefits paid in workers' compensation benefits.

(3) If the manufacturer or product seller attempts to persuade the trier of fact that the claimant's harm was caused by the fault of the claimant's employer or coemployees, then the issue whether the claimant's harm was caused by the claimant's employer or coemployees shall be submitted to the trier of fact. If the manufacturer or product seller so attempts to persuade the trier of fact it shall provide written notice to the employer. The employer shall have the right to appear, to be represented, to introduce evidence, to cross-examine adverse witnesses, and to argue to the trier of fact as to this issue as fully as though the employer were a party although not named or joined as a party to the proceeding. Such issue shall be the last issue submitted to the trier of fact. If the trier of fact finds by clear and convincing evidence that the claimant's harm was caused by the fault of the claimant's employer or coemployees, then the court shall reduce the damages awarded by the trier of fact against the manufacturer or product seller by the sum of the amount paid as workers' compensation benefits and the present value of all workers' compensation benefits to which the employee is or would be entitled for such harm as determined by the appropriate workers' compensation authority and the manufacturer or product seller shall have no further right by way of contribution or otherwise against the employer. However, the employer shall not lose its right of subrogation because of an intentional tort committed against the claimant by the claimant's coemployees or for acts committed by coemployees outside the scope of normal work practices.

(4) If the verdict shall be that the claimant's harm was not caused by the fault of the claimant's employer or coemployees, then the manufacturer or product seller shall reimburse the employer or workers' compensation insurer of the employer for reasonable attorneys' fees and court costs incurred in the resolution of the subrogation claim, as determined by the court.

(b)(1) In any civil action subject to this title in which damages are sought for harm for which the person injured is or would have been entitled to receive compensation under any State or Federal workers' compensation law, no third party tortfeasor may maintain any action for implied indemnity or contribution against the employer, any coemployee, or the exclusive representative of the person who was injured.

(2) Nothing in this Act shall be construed to affect any provision of a State or Federal workers' compensation law which prohibits a person who is or would have been entitled to receive compensation under any such law, or any other person whose claim is or would have been derivative from such a claim, from recovering for harm caused by a product in any action other than a workers' compensation claim against a present or former employer or workers' compensation insurer of the employer, any coemployee, or the exclusive representative of the person who was injured.

(3) Any action other than as provided in paragraph (2) shall be prohibited, except that nothing in this Act shall be construed to affect any State or Federal workers' com-

pensation law which permits recovery based on a claim of an intentional tort by the employer or coemployee, where the claimant's harm was caused by such an intentional tort.

(c) In any civil action subject to this title in which damages are sought for harm for which the person injured is entitled to receive compensation under any State or Federal workers' compensation law, the action shall, on application of the claimant made at the claimant's sole discretion, be stayed until such time as the full amount payable as workers' compensation benefits has been finally determined under such workers' compensation law. The verdict as determined by the trier of fact pursuant to this title shall have no binding effect on and shall not be used as evidence in any other proceeding.

(d) A claimant in a civil action subject to this title who is or may be eligible to receive compensation under any State or Federal workers' compensation law must provide written notice of the filing of the civil action to the claimant's employer within 30 days of the filing. The written notice shall include information regarding the date and court in which the civil action was filed, the names and addresses of all plaintiffs and defendants appearing on the complaint, the court docket number if available, and a copy of the complaint which was filed in the civil action.

Mr. EXON. Mr. President, I am pleased to file an amendment to S. 640, the Products Liability Reform Act which clarifies the subrogation rights of companies who have workers injured on the job. I file the amendment today so that it may be considered timely in a post-cloture situation.

NATIONAL DEFENSE AUTHORIZATION ACT

LAUTENBERG (AND CONRAD) AMENDMENT NO. 2950

(Ordered to lie on the table.)

Mr. LAUTENBERG (for himself and Mr. CONRAD) submitted an amendment intended to be proposed by them to the bill (S. 3114) to authorize appropriations for fiscal year 1993 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes, as follows:

On page 141, below line 19, insert the following:

SEC. 364. DEFENSE BURDENSHARING.

(a) DEFENSE BURDENSHARING AGREEMENTS.—The President should enter into an agreement on defense burdensharing described in subsection (b) with each foreign country referred to in subsection (c).

(b) CONTENT OF AGREEMENT.—An agreement entered into with a foreign country under subsection (a) shall require such country, on or before September 30, 1994—

(1) to assume an increased share of the costs of United States military installations in that country, including the costs of—

(A) labor, utilities, and services;

(B) military construction projects and real property maintenance;

(C) leasing requirements associated with United States military presence; and

(D) actions taken to meet local environmental standards;

(2) to relieve the Armed Forces of the United States of all tax liability that, with respect to forces located in such country, is incurred by the Armed Forces under the law of that country and the laws of the communities where those forces are located; and

(3) to ensure that goods and services furnished in that country to the Armed Forces of the United States are provided at minimum cost and without imposition of user fees.

(c) COVERED COUNTRIES.—(1) Except as provided in paragraph (2), subsection (a) applies with respect to—

(A) each member state of the North Atlantic Treaty Organization (other than the United States); and

(B) each other foreign country with which the United States has a bilateral or multilateral defense agreement that provides for the assignment of combat units of the Armed Forces of the United States to permanent duty in that country or the placement of combat equipment of the United States in that country.

(2) Subsection (a) does not apply to a foreign country that—

(A) receives assistance under—

(i) section 23 of the Arms Export Control Act (22 U.S.C. 2673), relating to the foreign military financing program; or

(ii) the provisions of chapter 4 of part II of the Foreign Assistance Act of 1961 (22 U.S.C. 2346 et seq.); or

(B) has agreed to assume, not later than September 30, 1996, at least 75 percent of the non-personnel costs of United States military installations in that country.

(d) FUNDING LIMITATIONS.—(1) The amount obligated by the United States to conduct overseas basing activities for fiscal year 1994 in a foreign country with respect to which subsection (a) applies may not exceed the amount equal to 95 percent of the amount of United States funds that is necessary to fund overseas basing activities in that foreign country in such fiscal year. An agreement entered into with that foreign country in accordance with such subsection should provide for the foreign country to assume the responsibilities under subsection (b)(1), including the remainder of that necessary amount.

(2) The Secretary of Defense may waive the application of paragraph (1) to a particular country if he determines that such action is essential to the national security of the United States.

Mr. LAUTENBERG. Mr. President, when the Senate returns to the fiscal year 1993 Department of Defense authorization bill in September, I intend to offer a burdensharing amendment. I am pleased that Senator CONRAD is an original cosponsor of this amendment.

The amendment calls on the administration to negotiate new agreements with our wealthier NATO allies and South Korea to require them to pay more for the overseas basing costs of maintaining our troops.

Mr. President, this amendment is straightforward. It calls for the President to negotiate new burdensharing agreements with South Korea and NATO countries including Germany, Italy, and Great Britain. It requires those host nations with U.S. military installations to pay for a greater portion of our overseas basing costs. The new agreements with those countries would be based on the relatively new agreement the U.S. has negotiated with Japan, which seeks payment by the Japanese of all overseas basing costs. As my colleagues are no doubt aware, that agreement resulted from strong Congressional pressure over many years.

The amendment would give the administration 1 year to negotiate these new agreements. In fiscal year 1994, it would result in a 5 percent reduction in the amount of funds the U.S. would pay for overseas basing activities in these host nations. These cuts will provide the incentive the administration needs to get tough and negotiate a better deal for the American taxpayers. And the savings would be used for deficit reduction.

Mr. President, while far from perfect, the new Japanese agreement is a good model for host nation agreements because it offers a much better deal for the American taxpayer. Unlike our other agreements, the Japanese agreement leaves the American taxpayer footing less of the defense burden overseas. According to DOD, for example, Japan, will pay 70 percent of the U.S. overseas basing costs and the U.S. will pay for 30 percent of those costs in fiscal year 1992.

In fiscal year 1993, Japan is expected to pay for 72 percent of the overseas basing costs. Under the agreement, by 1996, Japan is supposed to pay all of those costs.

On the other hand, the administration lets the Germans take the American taxpayers to the cleaners under our existing agreement. For example, in fiscal year 1992 the Germans will pay for only 23 percent of our overseas basing costs, while the American people are forced to pay the remaining 77 percent.

The American people shouldn't have to pay for so much of Germany's defense. We can't afford it.

Mr. President, the German Government recently announced that it would spend $8 billion over 5 years toward the cost of housing Russian troops in the former East Germany. Ironically, this is about how much Germany paid the United States over the last 5 years to protect their security. If the Germans can afford to spend $8 billion to house Russian troops, this Senator believes they can afford to pay the United States more than 29 percent of what it currently costs to station thousands of United States troops in Germany to protect their security.

We're getting the short end of the stick when it comes to paying salaries as well. Unbelievably, our Government pays for salaries of foreign nationals who work on United States bases in Germany and in all host nations. The Germans pay for only 18 percent of those salaries. At the same time, the Japanese are currently paying 66 percent of those salaries and will pay for 100 percent of those salaries by the end of the Japanese 1995 fiscal year. This

Senator believes the Germans should pay 100 percent of the salaries of foreign nationals at those bases. Certainly the Germans can afford to pay for more.

Even worse, is that under our agreement with Germany, the American people will be required to pay severance to German workers who will lose their jobs as a result of the military drawdown! According to the GAO, this could potentially cost the United States taxpayers an additional $207 million. It's hard for this Senator to believe that our administration, which fought so hard against extending unemployment benefits for hardworking U.S. citizens, would agree to pay severance to German citizens while our own citizens are out of work. This must change.

The South Koreans can afford to pay more as well for the 14 major military facilities in South Korea. Korea only pays for 29 percent of the salaries of its foreign nationals who work on United States bases and the United States picks up the rest of the tab. The Koreans can afford to pay more. And the administration needs to be more forceful in requiring them to do that.

Mr. President, in line with the Japanese agreement, this amendment would require host countries to assume an increased share of the costs to the United States of maintaining military installations overseas.

It would encourage the President to enter agreements which require host nations pay all labor, utilities and services at our facilities. The agreement we have with the Japanese calls for the host nation to assume 100 percent of labor—including foreign national salaries and severance pay—and utilities costs by April 1996.

It would encourage the President to enter agreements in which the most nation would pay for all military construction projects and real property maintenance. The Japanese currently pay for a portion of these costs, and will pay more.

It would encourage the President to seek agreements in which host nations would pay for all leasing requirements associated with United States military presence. The Japanese agreement requires the Japanese Government to pay for all appropriate yen based costs.

It would encourage the President to enter agreements which require host nations to pay for all actions taken to meet local environmental standards. The Japanese agreement calls for the host nation to assume environmental restoration costs.

It would encourage the President to enter agreements which require host nations to relieve the U.S. military of all tax liability incurred on a U.S. military installation. The Japanese agreement does this—including exemptions from all tolls and customs fees.

And it would encourage the President to enter agreements to ensure that goods and services furnished to the United States military forces are provided at minimum cost and without imposition of user fees. The Japanese agreement exempts U.S. military goods and services from all tolls and customs fees.

Mr. President, this amendment is a modified version of one that was adopted by a vote of 396-9 in the House of Representatives during consideration of the fiscal year 1993 Department of Defense Authorization bill. That amendment was offered by Representative KASICH, ranking minority member of the Readiness Subcommittee of the House Armed Services Committee, and Representative PANETTA, chairman of the House Budget Committee. The amendment was supported by the chairman of the House Armed Services Committee.

This amendment is long overdue. While our economy continues to stagnate, and unemployment claims continue to raise, our NATO allies and the Koreans are getting a free ride at the expense of the American people. While we pour money into the defense of their nation, they pour money into their already strong and thriving economies.

Yet, we continue to finance a disproportionate share of the defense burden. In 1991, the United States spent approximately $1,180 per capita for the defense of the world, while Germany only spent approximately $446 per capita. And we continue to spend the highest portion of our GDP on defense. According to the most recent available statistics, the U.S. spent a staggering 5.9 percent of its GDP on defense, while Germany spent only 2.8 percent, and Korea spent 4.3 percent.

The U.S. simply cannot afford to pay any longer. Our Nation has nearly a $400 billion deficit, and a $4 trillion national debt. Yet, in fiscal year 1992, according to the Defense Department, we spent about $12.5 billion on overseas basing costs. Almost half of that was spent in Germany. We can't continue bankrolling the defense of our allies.

Without stronger Congressional action, the administration will not be likely to press our allies to pick up a greater share of the defense burden. The Japanese model was negotiated only after years of pressure from the Congress. Still, the U.S. pays the lions share of the overseas basing costs in all other countries where we have military facilities.

Clearly, more needs to be done to force the administration to get our allies to pick up more of the defense tab. For many years, Congress has urged the administration to get our wealthier NATO allies to contribute more, and very little has happened.

Even with these new host nation agreements, the United States will continue to pay enormous amounts of money to defend collective security interests overseas. We will still pay for the cost of our personnel, our equipment, our operational costs, transportation costs and ammunition. We will still spend billions defending Europe, the Pacific, and the Middle East.

Mr. President, this amendment will move the administration in the right direction, and will at long last relieve the American people of part of the defense burden which they've carried for far too long. I have been working with the managers of the bill on this amendment, and I hope it will be acceptable to them. I urge my colleagues to support this amendment.

DEPARTMENT OF VETERANS AFFAIRS AND HOUSING AND URBAN DEVELOPMENT AND INDEPENDENT AGENCIES APPROPRIATIONS, FISCAL YEAR 1993

DOMENICI AMENDMENT NO. 2951

(Ordered to lie on the table.)

Mr. DOMENICI submitted an amendment intended to be proposed by him to the bill (H.R. 5679) making appropriations for the Departments of Veterans Affairs and Housing and Urban Development, and for sundry independent agencies, boards, commissions, corporations, and offices for the fiscal year ending September 30, 1993, and for other purposes, as follows:

On page 81, line 21, after the word "State;" add "$2,000,000 shall be for a grant to the State of New Mexico for the purpose of improving wastewater treatment in the South Valley, Bernalillo County, New Mexico;"

NOTICES OF HEARINGS

COMMITTEE ON RULES AND ADMINISTRATION

Mr. FORD. Mr. President, I wish to announce that the Committee on Rules and Administration will meet at 9:30 a.m., on Thursday, September 10, 1992, in SR-301, to hold a markup. The Committee will consider pending legislative and administrative business.

For further information regarding this markup, please contact Carole Blessington of the Rules Committee staff on 224-0278.

SUBCOMMITTEE ON PUBLIC LANDS, NATIONAL PARKS AND FORESTS

Mr. BUMPERS. Mr. President, I would like to announce for the public that a hearing has been scheduled before the Subcommittee on Public Lands, National Parks and Forests of the Committee on Energy and Natural Resources.

The hearing will take place on Tuesday, September 15, 1992, beginning at 2:30 p.m. in room SD-366 of the Dirksen Senate Office Building in Washington, DC.

The purpose of the hearing is to receive testimony on the following bills currently pending before the subcommittee:

H.R. 3638, making technical amendments to the law which authorizes modification of the boundaries of the Alaska Maritime National Wildlife Refuge;

S. 2353, to provide for a land exchange with the city of Tacoma, Washington; and

S. 2653 and H.R. 3457, to amend the Wild and Scenic Rivers Act by designating certain segments and tributaries of the Delaware River in Pennsylvania and New Jersey for study for potential addition to the National Wild and Scenic Rivers System and by authorizing the Secretary of the Interior to designate as components of the National Wild and Scenic Rivers System those segments and tributaries that the Secretary determines are eligible for designation, and for other purposes.

Because of the limited time available for the hearing, witnesses may testify by invitation only. However, anyone wishing to submit written testimony to be included in the hearing record is welcome to do so. Those wishing to submit written testimony should send two copies to the Subcommittee on Public Lands, National Parks and Forests, Committee on Energy and Natural Resources, 304 Dirksen Senate Office Building, Washington, DC 20510.

For further information regarding the hearing, please contact David Brooks of the subcommittee staff at (202) 224-9863.

COMMITTEE ON AGRICULTURE, NUTRITION, AND FORESTRY

Mr. LEAHY. Mr. President, I would like to announce that the Senate Committee on Agriculture, Nutrition, and Forestry Subcommittee on Agricultural Research and General Legislation will hold a hearing on the implementation of the research and education provisions of the Food, Agriculture, Conservation, and Trade Act of 1990. The hearing will focus on the U.S. Department of Agriculture's efforts to ensure that research activities supported by the Agricultural Research Service, the National Research Initiative, and the Sustainable Agriculture, Research and Education program foster the development of sustainable agriculture systems. The hearing will be held on Thursday, September 17, 1992, at 9:30 a.m. in SR-332. Senator TOM DASCHLE will preside.

For further information please contact Laura Lengnick at 224-2321.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON ARMED SERVICES

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Committee on Armed Services be authorized to meet on Wednesday, August 12, 1992, at 2:15 p.m., in executive session, to receive testimony from a former prison camp inmate in Bosnia.

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

SUBSCOMMITTEE ON ENVIRONMENTAL PROTECTION

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Subcommittee on Environmental Protection, Committee on Environmental and Public Works, be authorized to meet during the session of the Senate on Wednesday, August 12, beginning at 9 a.m., to conduct a hearing to consider S. 2762, the Northern Spotted Owl Preservation and Northwest Economic Stabilization Act of 1991.

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

COMMITTEE ON FOREIGN RELATIONS

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Committee on foreign, Relations be authorized to meet during the session of the Senate on Wednesday, August 12, at 8:15 a.m. to hold a hearing on ambassadorial nominees.

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

SELECT COMMITTEE ON INDIAN AFFAIRS

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Select Committee on Indian Affairs be authorized to meet on August 12, 1992, beginning at 9:30 a.m., in 485 Russell Senate Office Building, to consider for report to the Senate S. 2975, the Yavapai-Prescott Indian Tribe Water Rights Settlement Act of 1992; S. 3095, Jena Band of Choctaws Louisiana Restoration Act; and for other purposes, to be followed immediately by an oversight hearing on Indian trust fund management.

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

COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

Mr. MITCHELL. Mr. President, I ask unanimous consent tht the Committee on Commerce, Science, and Transportation, be authorized to meet during the session of the Senate on August 12, 1992, at 10 a.m. on the nomination of Robert E. Martinez of New Jersey to be Associate Deputy Secretary of Transportation.

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

PERMANENT SUBCOMMITTEE ON INVESTIGATIONS

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Permanent Subcommittee on Investagions of the Committee on Governmental Affairs, be authorized to meet during the session of the Senate on Wednesday, August 12, 1992, to hod a hearing on corruption in professional boxing.

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

SELECT COMMITTEE ON INDIAN AFFAIRS

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Select Committee of Indian Affairs be authorized to meet on August 12, 1992, beginning at 9:30 a.m., in 485 Russell Senate Office Building, to consider for report to the Senate S. 3095, Jena Band of Choctaws Louisiana Restoration Act; and for other purposes, to be followed immediately by an oversight hearing on Indian trust fund Management.

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

SELECT COMMITTEE ON POW/MIA AFFAIRS

Mr. MITCHELL. Mr. President, I ask unanimous consent for the Senate Select Committee on POW/MIA Affairs to meet Wednesday, August 12, 1992, at 9:30 a.m. in room 325 of the Russell Senate Office Building for hearings to examine U.S. Government and other efforts on behalf of the POW/MIAs in Southeast Asia.

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

COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Committee on Commerce, Science, and Transportation, be authorized to meet during the session of the Senate on August 12, 1992, at 9:15 a.m. on the nomination of Marion Clifton Blakey of Mississippi to be Administrator of the National Highway Traffic Safety Administration.

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

COMMITTEE ON BANKING, HOUSING AND URBAN AFFAIRS

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Committee on Banking, Housing and Urban Affairs be authorized to meet during the session of the Senate, Wednesday, August 12, 1992, at 10 a.m. to conduct a hearing on the state of the U.S. economy and competitiveness.

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

COMMITTEE ON GOVERNMENTAL AFFAIRS

Mr. Mitchell. Mr. President, I ask unanimous consent that the the Governmental Affairs Committee be authorized to meet on Wednesday, August 12, at 12 noon for a hearing on the subject: adjustment again? The accuracy of the Census Bureau's population estimates and impact on State funding allocations.

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

COMMITTEE ON THE JUDICIARY

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to hold a business meeting during the session of the Senate on Wednesday, August 12, 1992, at 2 p.m.

AGENDA

I. NOMINATIONS

UNITED STATES CIRCUIT COURT

Alvin A. Schall, to be United States Circuit Judge for the Federal Circuit.

Ilana Rovner, to be United States Circuit Judge for the Seventh Circuit.

UNITED STATES DISTRICT COURT

Linda H. McLaughlin, to be United States District Judge for the Central District of California.

Carol E. Jackson, to be United States District Judge for the Eastern District of Missouri.

Joseph A. DiClerico, to be United States District Judge for the District of New Hampshire.

Michael J. Melloy, to be United States District Judge for the Northern District of Iowa.

John G. Heyburn, II, to be United States District Judge for the Western District of Kentucky.

Alfred V. Covello, to be United States District Judge for the District of Connecticut.

UNITED STATES DEPARTMENT OF JUSTICE

Edward F. Reilly, to be Commissioner of the United States Parole Commission.

STATE JUSTICE INSTITUTE

Terrance B. Adamson, to be a Member of the Board of the Directors of the State Justice Institute.

John F. Daffron, Jr., to be a member of the Board of the Directors of the State Justice Institute.

II. BILLS

S. 1096—A bill to ensure the protection of motion picture copyrights, and for other purposes—Kohl.

S. 1697—A bill to amend title IX of the Civil Rights Act of 1968 to increase the penalties for violating the fair housing provisions of the Act, and for other purposes—Specter.

S. 790—A bill to amend the antitrust laws in order to preserve and promote wholesale and retail competition in the retail gasoline market—DeConcini.

S. 526—A bill to extend for 10 years the patent for the drug Ethiofos (WR2721) and its oral analogue—Thurmond.

S. 1165—A bill to extend the patent term for certain products—Levin.

S. 1506—A bill to extend the terms of the olestra patents, and for other purposes—Glenn.

S. 2484—A bill to establish research, development, and dissemination programs to assist State and local agencies in preventing crime against the elderly, and for other purposes—Kasten.

S. 287—A bill for the relief of Clayton Timothy Boyle and Clayton Louis Boyle, son and father—Akaka.

S. 1181—A bill for the relief of Christy Carl Hallien of Arlington, Texas—Bentsen.

S. 1859—A bill for the relief of Patricia A. McNamara—Mack.

S. 1947—A bill for the relief of Craig A. Klein—Graham.

H.R. 238—A bill for the relief of Craig A. Klein—Bennett.

H.R. 454—A bill for the relief of Bruce C. Veits—Coleman of Texas.

H.R. 478—A bill for the relief of Norman R. Ricks—Stallings.

S. 2043—A bill to prohibit certain motor fuel marketing practices—Simon.

S. 2964—A bill granting the consent of the Congress to a supplemental compact or agreement between the Commonwealth of Pennsylvania and the State of New Jersey concerning the Delaware River Port Authority—Specter.

S. 2508—A bill to amend the Unfair Competition Act to provide for private enforcement of the Unfair Competition Act in the event of unfair foreign competition and to amend title 28, United States Code, to provide for private enforcement of the customs fraud provisions) Specter.

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

COMMITTEE ON FOREIGN RELATIONS

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Wednesday, August 12, at approximately 11:30 a.m. to hold a brief business meeting. (Agenda attached.)

BUSINESS MEETING

The Committee will consider and vote on the following business items:

LEGISLATION

(1) S. Con. Res. 134, Cranston-Lugar resolution commending the People of the Philippines on their general elections.

(2) S. Res. 331, Dole resolution commemorating the Hungarian National Holiday.

NOMINATIONS

(1) Mr. Anthony C.E. Quainton, of the District of Columbia, to be Assistant Secretary of State for Diplomatic Security.

(2) Ms. Patricia Diaz Dennis, of Virginia, to be Assistant Secretary of State for Human Rights and Humanitarian Affairs.

(3) Mr. Alan Greenspan, of New York, to be U.S. Alternate Governor of the International Monetary Fund for a term of five years. (Reappointment)

(4) Ms. Harriet W. Isom, of Oregon, to be Ambassador to the Republic of Cameroon.

(5) Ms. Ruth A. Davis, of Georgia, to be Ambassador to the Republic of Benin.

(6) Mr. Mack F. Mattingly, of Georgia, to be Ambassador to the Republic of Seychelles.

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

ADDITIONAL STATEMENTS

RECYCLED PAPER

• Mr. FORD. Mr. President, the trend lines in governmentwide use of recycled writing and publishing papers continue to be quite positive. Some 860,000 more pounds of recycled paper was used in the second quarter of this year than last year, and the price advantage of large quantity recycled paper purchases continues to hold. The Government paid nearly $1 million less and got 6 percent more recycled products this quarter than it did in the second quarter of last year. In this third quarterly report, I am pleased to see the Government using less paper overall than it did last quarter.

The figures are prepared for me by the Government Printing Office under this signature of the Public Printer. I ask that the report be printed in the RECORD.

The report follows:

FEDERAL USE OF RECYCLED PAPER

Total amount paper and envelopes used by the federal government in this quarter (Apr., May, and June 1992):

Paper (pounds)[1,2,3]	21,581,249
Envelopes (each)[1]	26,125,850
Cartons (each)[1]	500,063
Cost	$8,984,115

Amount of recycled paper and envelopes used by the federal government in this quarter (Apr., May, and June 1992):

Paper (pounds)[1,2,3]	15,282,403
Envelopes (each)[1]	25,432,075
Cartons (each)[1]	500,063
Cost	$6,868,601

FEDERAL USE OF RECYCLED PAPER 1 YEAR AGO

Total amount of paper and envelopes used by the federal government in this quarter (Apr., May, and June 1991):

Paper (pounds)[1,2,3]	21,388,710
Envelopes (each)[1]	28,621,300
Cartons (each)[1]	273,057
Cost	$10,335,420

Amount of recycled paper and envelopes used by the federal government in this quarter (Apr., May, and June 1991):

Paper (pounds)[1,3]	14,419,535
Envelopes (each)[1]	27,762,661
Cartons (each)[1]	273,057
Cost	$7,733,688

QUARTERLY PAPER INVENTORY (APR., MAY, AND JUNE 1992)

Amount of paper GPO currently has on hand:

Paper (pounds)	19,343,676
Envelopes (each)	24,435,700
Cartons (each)	276,835
Cost	$8,752,251

Amount of recycled paper on hand:

Paper (pounds)[3]	18,208,447
Envelopes (each)	23,702,629
Cartons (each)	276,835
Cost	$8,273,108

[1]Includes direct shipments.
[2]Includes xerographic paper.
[3]Includes recycled xerographic.

Note.—The amount of recycled usage does not include virgin xerographic paper or virgin newsprint. The above data does not include figures for Printing Procurement.•

IN RECOGNITION OF WESCON WEEK

• Mr. SEYMOUR. Mr. President, I rise today in recognition of the 40th WESCON Electronics Convention to be held in Anaheim, CA, November 17–19, 1992.

WESCON is the largest electronics convention of its type in the United States. It draws approximately 2,200 exhibitors from around the world and brings in a crowd of over 45,000 spectators.

In recent years, events throughout the world have changed the opportunities for international business. As boundaries between nations have fallen, WESCON has been dedicated to bringing together engineers and manufacturers from all significant technological centers around the globe.

This year's show will focus on several emerging technologies. Of particular note will be several sessions, and exhibits exploring the latest developments in the electric vehicle industry and its impact on the environment.

This year, WESCON will participate in two international activities of special note. WESCON '92 is one of only 22 trade shows designated by the U.S. Department of Commerce [DOC] as part of the Foreign Buyer Program. Shows must meet strict DOC criteria to be selected, and only those shows which are believed to offer the best opportunities for overseas trade are chosen. Representatives from the DOC are working with U.S. Embassies and consulates to promote international attendance, and will help bring together foreign buyers with exhibiting U.S. companies at the show.

WESCON's focal point for the promotion of global business development

will be the International Business Center [IBC], which will be in operation during the show. The activities of the IBC will enhance the promotional activities of the Foreign Buyer Program with local and western regional promotions to foreign trade delegations and trade associations. Among the activities scheduled are an international business forum addressing current electronics trade opportunities and challenges. Multilateral consultations between show exhibitors, DOC officials, foreign trade representatives, and show attendees are also planned.

Mr. President, I ask that my colleagues join me today in commending WESCON on their efforts to increase international business between the United States and the world.●

TRIBUTE TO CAPT. DOUGLASS C. JEFFORDS

● Mr. SASSER. Mr. President, I rise today to applaud the exemplary military career of Capt. Douglass C. Jeffords, an officer in the U.S. Naval Reserve.

Captain Jeffords, reservist, has led the U.S. Navy Reserve in revolutionary areas of logistical and readiness detail, most recently in the aftermath of Desert Storm.

Captain Jeffords is retiring as Assistant Deputy for Readiness, Command, Region 9 in Memphis. He has been responsible for the training and readiness of over 5,000 naval reservists in a five-State area.

In recognition of his outstanding career, Captain Jeffords has been awarded both the Navy Commendation Medal and the Armed Services Expeditionary Medal.

Captain Jeffords entered Vanderbilt University in 1958 as an NROTC scholarship student, graduating with a bachelors degree in civil engineering in June 1962. He received a master of science in structural engineering from Vanderbilt in 1968. He also attended the Naval War College in Newport RI. In 1966, after his release from active duty, he became affiliated with Naval Reserve Surface Division, 8–89, in Nashville.

In 1982, he was assigned as commanding officer, Commander in Chief, Atlantic Command Detachment 309. As commander, Captain Jeffords resided over the documentation of message text formatting system, the Navy's JINTACCS documentation.

In October 1988, he was assigned as commanding officer, Naval Activities United Kingdom Headquarters Detachment 108, and as chief of staff, Commander Naval Activities Eastern Atlantic. As commanding officer, he was responsible for planning for the mobilization, training, organization, and activation of over 800 naval reservists. Under his tenure, plans for a more effective utilization of reserve forces were developed for the logistics support for operating forces. These plans were tested during live and command post exercises in the North Atlantic.

Following Desert Storm, Captain Jeffords proposed a new Reserve organization to perform logistic augment. This concept has been adopted for use throughout the entire Navy.

Captain Jeffords, who lives in Nashville with his wife, Jane, and his three sons, is a registered structural engineer. He is a member of the Naval Reserve Association, American Society of Civil Engineers, the National Society of Civil Engineers, and the Construction Specifications Institute.●

TRIBUTE TO J. EMMANUEL WILLETT, PH.D.

● Mr. MCCONNELL. Mr. President, I rise today to pay tribute to a gentleman whose career has had a positive impact on countless Kentuckians. J. Emmanuel Willett will be retiring at the end of this month after a 25-year career of serving the northern Kentucky community in the field of mental health.

During the past quarter of a century as president and chief executive officer of the Comprehensive Care Centers and Children's Psychiatric Hospital of Northern Kentucky, Mr. Willett has built a wealth of services for those suffering from mental health disabilities.

Mr. Willett's path to the office of executive director of Northern Kentucky Mental Health/Mental Retardation Regional Board and the Comprehensive Care Centers it operates has been no simple walk in the park. His trek began as a University of Kentucky graduate student. At that time Mr. Willett was supported by a State stipend program which included working summers at the Albert B. Chandler Medical Center. After finishing his internship, he worked full time at Thomas Moore College.

To repay his stipend, Mr. Willett became involved in organizing the regional board and construction plans for the new Northern Kentucky Comprehensive Care Center. After his task was completed he was offered the position of executive director of the center. Mr. Willett was not only the first, but has been the only executive director employed by the center.

During the past 25 years, Mr. Willett has worked dutifully to ensure that the center remains a model of quality mental health care. During Mr. Willett's tenure, the regional board has developed a number of innovative services to help the community.

Mr. President, please join me in honoring this doctor, educator and visionary who has realized his dream of being able to help others. J. Emmanuel Willett, Ph.D., is a point of light to the many citizens of Kentucky who have received the special care they needed at the Comprehensive Care Centers and Children's Psychiatric Hospital of Northern Kentucky.

I wish Mr. Willett a wonderful retirement and the best of luck in his future endeavors.

Mr. President, I would like the following article from the Kentucky Psychological Association Newsletter to be submitted into the CONGRESSIONAL RECORD.

The article follows:

PROFILE OF CENTERS' PRESIDENT

The journey of life is full of turning points, both personally and professionally. For J. Emmanuel Willett, Ph.D., President, two such moments occurred in 1954. It was that year he married his wife, Dorothy, whom he grew up with in his hometown of Fancy Farm, Kentucky. He also visited his sister in Cincinnati who thought he needed to get out of his present construction job and go back to teaching. She lined up interviews for him with a number of local colleges, but it wasn't until six months later that he was offered a position teaching education at Mount St. Joseph College. A few years previously, he had attended St. Mary's College in Lebanon, Kentucky with his eye on the ministry. He realized the ministry wasn't where he belonged, but continued to have a desire to help others. He considered a career in teaching and enrolled in the MA program in Guidance and Counseling at Catholic University.

He taught at Mt. St. Joseph for seven years and at the same time took courses at the University of Cincinnati. It was there Dr. Willett met George Kisker and took an Introduction to Clinical Psychology. He realized then that this could be a means of helping others. Dr. Willett took a sabbatical and finished graduate school at the University of Kentucky, concentrating on clinical psychology. Graduate school included two years of course work and one year as a clinical psychology intern at the Albert B. Chandler Medical Center. After finishing his internship, he worked at a mental health center on a full-time basis and taught part time at Thomas More College. During his graduate school career, he commuted via Greyhound bus from Cincinnati to Lexington, staying at a boarding house throughout the week.

Dr. Willett's involvement with the development of the Center began when he was working for the Department of Mental Health in 1964 to repay the state for financial assistance which helped him to complete his doctoral work at UK. To serve out the remaining twelve month indenture, Commissioner Dale Farabee charged him with the task of organizing the newly incorporated Northern Kentucky Mental Health-Mental Retardation Regional Board. This was accomplished in May 1965. His state commitment would be satisfied by December, so he began planning to search for employment elsewhere—only to have the Board offer him the position of Executive Director of Northern Kentucky Community Mental Health Centers. He assumed his new position on October 1, 1966. He was not only the first, but has been the only Executive Director employed by the Center. Never forgetting his commitment to teaching. Dr. Willett taught part time at Thomas More College until 1983, donating his salary back to the institution.

Dr. Willett is a native of Fancy Farm, a small, rural community in Western Kentucky. He was raised on a farm settled in 1821 by his great-grandfather, Samuel Willett. As a high school student at Fancy

Farm, he took four years of Latin, English, and Math, along with Chemistry and French classes. In 1942, at age 16, he received his high school diploma. He was too young for the military and decided to stay with his sister in Cincinnati to work as an apprentice glass-blower in a war plant. He later apprenticed as an electrician and then enlisted in the Air Force in 1944. He was a clerical worker until his discharge.

For twenty-five years Dr. Willett has worked faithfully, offering his time and expertise to ensure that the Center remains the best provider of quality services that it can be. Under his leadership, the Center has experienced positive changes and growing pains. With the support of the Regional Board, he and the Center staff have been able to maintain quality, professional mental health and mental retardation services in the Northern Kentucky Region. Dr. Willett's dedicated leadership has provided stability to the Center's history of struggles and successes.●

COMMUNITY ENTERPRISES OF ISSAQUAH RECIPIENTS OF THE 1992 CONSUMER CHAMPION AWARD

● Mr. GORTON. Mr. President, this coming Friday I have the honor of presenting my 1992 Consumer Champion Award to Community Enterprises of Issaquah [CEI].

For many years, CEI has provided a much needed recycling drop off center at which Issaquah residents can recycle everything from paper and phone books to plastics and scrap metal. But CEI does more than provide a way for people to recycle and reduce the amount of trash that clogs our landfills; CEI also provides an outstanding service to the community by offering employment to people with disabilities—people who often must fight harder for the opportunities many of us take for granted.

CEI's approach succeeds on many levels. The community gains a needed service. CEI's employees gain valuable skills necessary to perform a needed job, the sense of accomplishment from mastering a new skill, and the self-confidence which can prepare them for other opportunities.

The message CEI gives is one of hope. Let me end my remarks by quoting the author Thomas Wolfe: "So, then, to every man his chance—to every man the right to live, to work, to be himself, and to become whatever thing his manhood and vision can combine to make him—this * * * is the promise of America."

It is my great privilege to award CEI with the 1992 Consumer Champion Award because of the invaluable service it provides recycling conscious consumers while affording many opportunities to people with disabilities.●

TIM WIRTH: UNDERSTANDING HIS DECISION TO LEAVE

● Mr. DASCHLE. Mr. President, on Wednesday, April 8, we heard the disturbing news that Senator TIM WIRTH of Colorado has announced his decision not to run for a second term. We were shocked and saddened. Shocked because TIM was expected to win his reelection effort, and saddened because he is a friend and one of the brightest lights in the Senate.

In "Diary of a Dropout," published in the August 9, 1992 edition of the New York Times Magazine, TIM WIRTH diagrams his decision, and the week that preceded it: "Looking back at the climactic week of my political life, I can put my decision and its causes into the kind of order that immediacy obscures but hindsight permits."

His story is fascinating and well written. It is an honest appraisal of the frustrations of working within a very flawed system. It is a generous invitation to understand a decision that is both incredibly public and utterly private. But its importance lies in its lessons—for TIM WIRTH'S colleagues in the Senate, for all elected officials, for the media, and for the voting public.

We need to understand why a Senator as caring and able as TIM WIRTH would voluntarily give up his seat. TIM WIRTH is exactly the kind of Senator—the kind of person—this country needs to help us address the challenges of the next century. His absence from this body will be America's loss.

TIM WIRTH will continue to offer his country his talents and to champion important causes. As he put it, "there's more than one venue for fighting the fight that counts." But his retirement from the Senate and his explanation of that decision pose important questions that we must ask ourselves: How can we change our system so that the best and the brightest are attracted to national service? How do we ensure that Congress, the President, and the public will be willing to attack the difficult issues? How do we remain true to our principles, both on a personal and a national level?

TIM WIRTH has already used another venue to serve his country. His story in the New York Times Magazine compels us to search for answers to these important questions, and I hope we in the Senate and we as a society will begin that search.

Mr. President, reading "Diary of a Dropout" is a good first step in that process, and I ask that this story by Senator TIM WIRTH be printed in the RECORD following these remarks.

The article follows:

[From the New York Times Magazine, Aug. 9, 1992]

DIARY OF A DROPOUT

(By Senator Tim Wirth)

When I decided this spring not to run for a second term in the United States Senate, I surprised not only my colleagues, friends, family and staff, but also myself. I had come to Congress from Colorado in 1974 as one of the 75 post-Watergate Democrats elected to the House of Representatives. After 12 years in the House and five nail-biting re-election campaigns, I narrowly won the Senate seat Gary Hart had vacated. This year I was favored to win a tough race, and despite occasional twinges of private doubt, I was basically drifting into my re-election campaign on automatic pilot. I hoped that my second Senate term would bring more satisfaction than the first.

But in one week those illusions came apart. After 18 years on Capitol Hill, the prospect of another term in office had lost its bright glow.

I am leaving the Senate now because I have become frustrated with the posturing and paralysis of Congress. I even fear that the political process has made me a person I don't like.

Looking back at the climactic week of my political life, I can put my decision and its causes into the kind of order that immediacy obscures but hindsight permits.

Monday, March 30, was a banner day for the Wirth fundraising machine. In the morning, my wife, Wren, and I flew from Colorado to Houston, where we secured more than $70,000 in campaign contributions from executives of the natural-gas industry—apparently close to a single-event record for a non-Texan politician.

It was done in style, at a crowded reception in the grand River Oaks house of Oscar and Lynn Wyatt, a marble-floored approximation of a French chateau. The mansion, called Allington, is a big drawing card in Houston, and few upwardly mobile Houstonians would pass up a chance to see and be seen on the premises. Oscar Wyatt, a self-made tycoon with a stiletto tongue, had spent nearly six months returning one call for every four that I made to him. Once we actually talked, though, he quickly agreed to be my host, along with Mike Walsh, the new head of Tenneco and an old friend of mine from the days when we were both admissions officers, he at Stanford and I at Harvard.

Through my legislative work on energy issues, I had come in contact with Oscar, whose Coastal Corporation owns about 5 percent of all American gas and liquid pipelines, and Mike, who left the presidency of the Union Pacific Railroad to take over Tenneco, a huge conglomerate with major difficulties. In the Senate last February, I had helped pass a major energy bill that promoted natural gas and encouraged the gas industry to end its dependence on oil. The big reception in Houston was a way for the energy industry to say thank you by helping me raise part of the $4 million war chest I thought I'd need for the fall campaign.

I knew that raising so much money at a single event from a single industry would expose me to more of the attacks that the Colorado press has been making for years. The fact that natural gas is a major Colorado industry, that I have long used it to fuel my Jeep and that for years I have been pushing it as an environmentally sound domestic-energy source would not take the sting out of the inevitable headline: "Gas Magnates Bankroll Wirth Campaign."

The story would fail to note, of course, that I have received almost no support, financial or otherwise, from Detroit auto makers, whom I have angered by pressing for safety and fuel-efficiency improvements, or from the oil industry, whose legislative efforts to open the Arctic National Wildlife Refuge to prospecting I helped defeat this year. But when I take money from friends, people who are not only constituents but whose interests I see as coincident with na-

tional interests, I can count on an ugly story about being in the pocket of big contributors.

It was probably just as well that no reporters were in the room in Houston, where earlier in the day I gave a talk to a group of Coastal employees. Journalists would certainly have loved the way Oscar Wyatt had got the group to start asking me questions. Recalling the time his father had taken him to a carnival where one of the sideshows was a kissing pig, Oscar said, "C'mon, you only get one chance to kiss the pig, so you better get with it."

Tuesday, March 31, I spent a good part of the morning on the telephone, working on three big fund-raising events scheduled for May in Philadelphia, New York and Los Angeles. Back in 1974, as I faced the problems of financing my first race, a wise friend in Denver told me, "If you don't have enough confidence in yourself to ask for money, you don't belong in politics." I learned that lesson early and lived by its corollary: "If you don't ask, people have an absolute chance of not saying yes."

I had become very good at asking, but all the time it took to raise funds was time not spent talking with constituents, not tending to legislative business and not actually campaigning. That style of grass-roots, county-courthouse politics was, for me, more myth than memory.

Unhappily, the first loyalty of any candidate is too often to self and re-election, rather than to any broad political organization or community of like-minded activists. The problem is not merely the power that big givers—interest groups as well as individuals—may gain over the elected officials they help; it is the fragmenting of what the parties used to provide: financial, organizational and even ideological support.

The Republicans, with the patronage power of the White House in their hands, can still deliver some of those rewards and exact some discipline in return. Democrats, revolting against Tammany-style corruption or Chicago-style big-city machines, have by and large become independent operators. As a result, the Democratic Congressional leadership has few weapons it can deploy to exert control. On every important vote, the Senate Majority Leader, George Mitchell of Maine, has to go out on the range and try to round up 57 straying heifers—the Democrats whose numbers give them theoretical control of the body.

The weekly Democratic caucus luncheon today epitomized our inability to work as a team. Held on the second floor of the Capitol, these sessions are scheduled to start at 12:30, but seldom get going before 1:15. And, for the most part, little of substance can be discussed because any controversial positions will be leaked to the press before we've finished digesting lunch.

The March 31 caucus was supposed to discuss two pending bills, one on health research and the other on financing international programs. But the talk was all about Senate perks, the fees we should pay to exercise in our seedy gym, the rationale for maintaining the Capitol physician's office and pharmacy and the hours the Senate restaurant should stay open when we're in night session. These petty matters had come to have immense political importance because of the incredible uproar over the misnamed, misrepresented "bank" in the House of Representatives.

The House bank scandal, devastating in its effect on the other side of the Hill, threw the Senate into a panic too. It did not seem to matter that no taxpayer or depositor lost a penny. What got fixed in the public mind was that Congress had grown arrogant and out of touch. Yes, many Representatives did overdraw their accounts, a few repeatedly and for large amounts, and yet no check bounced, no overdraft fees were assessed. The House bank, really more an old-fashioned, though poorly administered, cooperative, became a symbol of the special privileges all politicians supposedly get in Washington.

It was a great story for the news media, one that glibly portrayed public servants as rip-off artists. Droves of reporters went after the details with a slavering intensity rarely shown for more complicated, more important stories like the budget deficit, the $400 billion in hot checks that the Government is writing this year. The gap between what comes into the Treasury and what goes out constitutes the biggest overdraft in world history and has paralyzed the Government. But that scandal has received little attention compared with the furor generated by the House bank.

It was already "Topic A" some weeks earlier when Wren and I went to a ghastly mob-scene dinner in the ballroom of the Washington Hilton, where once a year the radio and television correspondents gather in evening clothes to celebrate themselves and the unspoken (but true) assumption that they are at the top of the power brokers' ladder in Washington.

On the way into the dinner, we had run into Representative Thomas J. Downey of New York, a close friend and a man clearly in agony. Tom is one of the most effective, decent, conscientious legislators I know, brilliant and incredibly hard-working. But he is a representative who overdrew his account. "I just came down here to help people," he told us. "That's all I ever wanted to do." It was painful to see a man of such talent so plaintive.

At the Democratic caucus luncheon in the Senate, the House bank pre-empted everything else. The talk turned immediately to how to handle our own perceived vulnerabilities (the gym, the doctor's office, the Senate restaurant), and degenerated into a round of suggestions for ways the "perks" issue could be turned against the Republicans in the Executive Branch. It would be easy, we could see, to tar the other guys with the brush they were using on us.

Unhappily, politics was consuming us all. A basic reason our institution was in trouble, I said, was that we were too often engaged in trivia and not performing the work for which we were elected. I said we needed to focus on national policy matters, on passing an energy bill through both Houses of Congress, on campaign-finance reform.

Another gathering that night brought the political realities of 1992 into even more depressing focus. Wren and I drove across the Potomac to McLean, Va., for a supper-and-strategy session at the home of Chuck Robb, the Virginia Senator who is chairman of the Democratic Senatorial Campaign Committee. Chuck and his wife, Lynda Bird, Lyndon Johnson's daughter, had invited each of the 16 Democrats from the Senate class of 1986 who would be running for re-election in November, and 12 had come with spouses and a smattering of senior staff to talk about the coming campaign.

At any time during the year, it is difficult to get three, let alone a dozen, senators in the same room at the same time. This night could have given us a rare opportunity to exchange serious ideas and to learn from each other. We should have been able to let our hair down and talk frankly about what we stood for and where we thought the country was going.

Instead, we were told by two prominent figures in Washington political circles—to no one's surprise—that Americans are angry at the Government and those who work in it. Everyone was tired, and so was the talk. I don't recall any mention of the global environmental crisis or America's wasteful energy appetites, and only glancing reference to health costs, education and defense-industry conversion. Questions and comments were few and dispirited, most concerned with ways of using careful polling, target groups and narrow issues—in other words, ways to get re-elected.

I thought of Hickory Hill, a mile or so down the road, the home in which Robert F. Kennedy held regular seminars in the 60's to examine national and international problems. Bobby Kennedy, with his passion and intellect, had been my model for what public service should be. His assassination had a profound effect on Wren and me. We had stood in Union Station in Baltimore as his funeral train came through, weeping with the crowd. We came away profoundly saddened and changed.

More than anything, Kennedy's death had propelled us into elective politics. Looking around the gathering of my colleagues, I wondered what had happened to our zeal. How could we be wasting our time like this when there was so much to do, in the old Kennedy phrase, to get our country moving again? Angry and frustrated, we drove home.

Wednesday, April 1, was an ordinary Senate day, chopped up into the usual rushed 15-minute encounters with Colorado constituents and special-interest groups from outside the state. It was also yet another futile day of pushing for some movement in my long battle to designate more than 650,000 acres in Colorado as wilderness. The project had been stymied for years by the flat-out opposition of Senator William L. Armstrong, my Republican counterpart until he retired in 1990.

Hank Brown, the Republican who replaced him, did not have the same set-in-concrete, sagebrush Rebellion convictions against protecting public land. After intense negotiations last year, Hank and I had worked out what we thought was a decent compromise. Instead, we discovered we had ignited significant controversy.

At issue was the legal status of water rights, which are fundamental to controlling this scarce resource in the region. Water rights have been the cause of violent feuds and political finagling for generations. In 1985, the Sierra Club brought an old and bitter controversy to the surface by suing the Forest Service in Federal court to try to reserve water rights for all designated wilderness areas—thus pitting developers against conservationists. Since the court did not fully resolve the issue, my Colorado wilderness areas bill became the vehicle both sides wanted to use to write their interpretation into binding law.

Hank Brown and I worked out a way to finesse the issue. In addition to adding 75,000 acres to the original request for wilderness status, our bill would have prohibited dams and other diversion structures in the new preserves, in effect protecting the water as it flowed through.

To many environmentalists in Colorado, who had been among my strongest supporters, that concession was an act of betrayal. They would not accept my argument that the wilderness we would save was worth far more than the shaky precedent our compromise might set.

That was the stalemated situation on April 1. During the day, I tried to talk the issue through once again with Representative George Miller of California, an old friend and Morris K. Udall's successor as Chairman of the House Interior Committee. I also spent much of the afternoon as chairman of a routine hearing on one of Hank Brown's special projects—to make the Cache la Poudre River in his backyard a National Water Heritage Area, extending a courtesy to him that grew naturally out of our collaboration on the wilderness bill.

All of this effort amounted to just more wheel-spinning on a project that should have been wrapped up 10 years ago. I was trying to work the bill through the House—and getting nowhere. I was losing heart. If, in our strong and affluent democracy, we had so much trouble preserving this small portion of God's creation, how in the world could we expect Brazilians or Malaysians to protect their millions of acres of rain forest?

The day left me drained—not an unusual feeling—and acutely aware of how hard it had become to get past Square 1 on the Capitol Hill battlefield. The environmentalists have a clear and defensible position, but at the end of the day, where is the progress? On this issue, in which Wren and I and my staff had invested so much time, we were not only getting nowhere, but were being eaten up by our own political supporters.

Thursday, April 2, was the day the roof began to fall in. That afternoon, I learned that Senator Kent Conrad of North Dakota, who had been elected with me in 1986 and had been at the Robbs' dinner the night before, had gone to the Senate floor to announce that he would not be running for re-election. His decision was a shocker. Here was a talented young senator, stunning everyone by cutting off what looked like an extremely promising political career. When I heard the news, I felt compelled to go over to his office and talk to him. Why? I wanted to know. "I just didn't like to go to work in the morning," he told me. "It is so frustrating. The budget is out of control, and I think I'm wasting my time and my life."

At home that night, I told Wren about my conversation with Kent. Wren replied that I'd been saying the exact same thing. "For weeks," she said, "you've been saying that we shouldn't have done this again."

She was right. On automatic pilot that afternoon, I had reviewed the draft of the statement I was planning to use 10 days later to announce my intention to run again—words I would deliver at a series of stops on a well-orchestrated campaign swing around Colorado.

Now my own manual control came back on. Thoughts flooded in, especially of scary false medical alarms Wren and I had each been through in the previous six months. Our reactions in both cases had shocked us. Before our diagnoses turned out to be wrong, we had each said to the other: "Well, if the news is bad, there's one bright side. We won't have to run again."

The truth was that I dreaded the campaign that lay ahead and, almost as much, the likelihood of winning it, of having to spend another six years like Kent Conrad, hating to go to work every morning. Discussing the race with my staff, I had told them that since the Republicans were going to do everything they could to beat me—their Colorado party chairman had publicly described his job as "attacking his [my] character"—I would have to reply in kind.

It was going to be a vicious fight. The substance of five years in the Senate, of 17 years in the Congress, of real achievements rung up for Colorado, would be ignored, irrelevant.

I felt an intense disdain for the man I would probably have to face, State Senator Terry Considine. His reborn-right-wing policies and right-to-life stridency were contrary to my deepest beliefs. Recently, reviving an old Communist-baiting cliché, he told a good friend of mine that we environmentalists were like watermelons; green on the outside, pink on the inside. I was certain I would defeat Considine, but I was equally sure it would be a long and ugly fight. With the news media all too ready to treat rumor as news and unattributed accusations as truth, I knew I would be subjected to unending Republican attacks. I would have to counterattack. Indeed, I was already armed with a great deal of unflattering material about my likely opponent.

Negative campaigns work. That is why there are so many of them and so few politicians running on their records or on the issues. I believed I could win that kind of campaign, but in tearing down my opponent, wouldn't I inevitably end up diminishing myself?

Another worry was the impact of such a campaign on our children. Our son, Christopher, 24, and our daughter Kelsey, 22, recent graduates of Stanford and Harvard, respectively, had grown up in politics, but this was the first campaign they would work full-time. How would the intense personal attacks affect them?

I tried to sort out what was really important to me. As we talked that night, Wren reminded me what a psychologist friend had said to her about the effects of waging the kind of campaign I was heading into. "If you have a mature, integrated personality, you can't just split off a piece of it and go out and do something that you intrinsically feel is wrong." Wren repeated the psychologist's words. "That is a betrayal of self. When you destroy someone, you destroy a part of yourself, too. And if you keep on doing it, you become a deadened, hollow man."

Friday, April 3, brought all the doubts to a head. The day started with an 8 A.M. memorial service for John Heinz, the Republican Senator from Pennsylvania who had died in a helicopter crash exactly a year earlier. We had been high-school friends and basketball teammates. Married but neither of us yet in politics, we became much closer, a foursome with our wives.

When Jack was already a congressman and I was running for the first time, the Heinzes incurred the wrath of their Republican brethren by sending me a substantial campaign contribution. When Jack ran for the Senate in 1976, I returned the favor; the pro-Heinz interview I gave The Philadelphia Inquirer drew complaining phone calls from top Pennsylvania Democrats. Ten years later, it was Jack's turn again when I ran for the Senate. He was chairman of the Republican Senate Campaign Committee, whose mission was to defeat Democrats wherever possible. When Jack came to Colorado, the stop he made in an obscure corner of the state managed to fulfill his party obligation without doing damage to me.

Jack radiated good spirits, boundless energy and an innocent conviction that he could make the world a better place. He and his wife, Teresa, shared Wren's and my passion about the environment. We worked and vacationed together; our children became close friends. We competed on the tennis court and collaborated in committee rooms, especially on Project 88, a major initiative we had written to address environmental problems through economic incentives. Our friendship had made possible my most productive activity in the Senate, and Jack's death took much of the joy out of my life there. Speaking at his funeral the year before may have been the most difficult thing I have ever had to do.

What was most important, in retrospect, was that our work on the environment had been completely nonpartisan—something I have rarely found in the Senate. Partisanship can be healthy, but during the Reagan and Bush years, it had risen in intensity to become an overwhelmingly polarizing force.

In the Senate, more and more issues are provoking divisions along strict ideological lines. The Republican contingent has grown increasingly conservative, led by a cadre of vocal rightwingers, like Phil Gramm of Texas and John McCain of Arizona. In reaction, the Democrats in the Senate have drifted left of center, courting a whole range of special interests in a frantic effort to hold voting blocs and financing sources.

As a result, bipartisanship has been replaced on the Senate floor by endless bickering and an increasing number of meaningless votes, usually on symbolic amendments offered to embarrass the opposition. How many times should we have to count the yeas and nays on Robert Mapplethorpe and the National Endowment for the Arts, or on flag burning, or on such mischievous and misconceived ideas as the Constitutional amendment to balance the budget? Meanwhile, the real issues get lost. The deficit looms larger. Campaign-contribution abuses grow. The Government in Washington, paralyzed by division, falls further into disrepute.

In personal terms, Jack Heinz's death left me with no allies in the Republican camp, on one with whom to explore ways through the logjam. On my own side of the aisle, my Democratic colleagues were all, like me, free agents who did occasionally band together, only to be demoralized by repeated Presidential vetos.

All that I had lost and missed so much came back to me in St. Alban's Parish that morning. Wren and I sat in pews behind the Heinz family, surrounded by many of our closest friends. The setting was familiar. Our children had been confirmed here. Next door was the Washington Cathedral and the Bethlehem Chapel, where Wren and I had been married. It should have been a consoling place, but I felt my sadness turning only to anger, especially as I watched my Republican colleagues take their places across the aisle in the pews reserved for senators. As I watched, I realized how few of them I connected to, personally or politically. I even resented them for intruding on my grief over Jack's death.

The chief celebrant at the service was Jack Danforth, the Republican Senator from Missouri and an ordained Episcopal minister. Danforth had given a moving homily at the funeral services a year ago in Pittsburgh and Washington. He had since emerged as the chief sponsor of Clarence Thomas' nomination to the Supreme Court and had doggedly managed Thomas' eventual confirmation.

For me, as for many Americans, the Thomas confirmation hearings had been a degrading spectacle, demeaning to the nominee, his accuser and the Senate. Early on, well before the Anita Hill charges came to light, Danforth had brought Thomas by my office, and, after nearly two hours of discussion and considerable research, I had been one of the first senators to announce against Thomas. After watching the conduct of the members of the

Senate Judiciary Committee—their attacks and apparent lack of preparation—I felt embarrassed to be a member of the Senate. Yet here I was taking communion from Jack Danforth. By the end of the service, I was furious—furious at the stupid accident that took Jack Heinz away from us, furious at the life I was leading.

Later that day, I was scheduled to speak briefly at a luncheon seminar given by the Environmental Defense Fund, and to introduce William Reilly, the head of the Environmental Protection Agency. I had written out a scathing attack on the Bush Administration's policies, from its hypocrisy on wetlands to its weasely response to the emerging crisis of global climate change.

But as food was served, I toned down my remarks and, in the end, found myself giving Reily a nice introduction. What I did not say but actually felt was that he is a decent man who has let himself become compromised—by losing so many policy battles inside the Administration and yet staying in office. The feeling, I realized, was not far from the view I was beginning to hold of myself.

Before lunch, I had called Carter Eskew, a partner in the prominent political consulting firm of Squier, Eskew & Knapp. Over the months, I had shared much of my discontent with Carter, who, besides being my campaign's chief media adviser, is also a friend. He was probably the only person who had a window onto Wren's and my misgiving about what we were doing. I told Carter to expect Wren and me to drop in on him that afternoon. We arrived about 2:30. I talked nonstop; Carter and Wren just listened.

I surprised myself with the clarity of my analysis. I saw myself about to go through seven months of horror—a negative campaign that would be hurtful to all concerned. And for what? To spend another six years in an institution that didn't work? To continue an insane life that required me to spend the vast percentage of my time doing things I did not want to do?

Carter did not try to argue with my decision. If he was shocked, he did not show it. Maybe he assumed that I just needed to let off a little steam. Later, he did say that he never thought I would really quit. But the more I thought about running, and the more I spelled out my reasons against it in Carter's office, the easier the decision became.

After about two hours, Wren and I left; I had to catch a plane for a number of meetings on another insane weekend schedule in Colorado, and she was going to Pittsburgh for the weekend to visit Teresa Heinz. We agreed to make lists—reasons to stay in the lefthand column, reasons to leave in the right. We talked in between meetings all weekend, and the analysis all leaned one way: It was over.

From then on, it simply became a matter of telling our children, our family and our close friends, as well as getting the announcement made as quickly as possible. Within 72 hours—by Tuesday evening, April 7—the story had leaked to the press. Tom Brokaw got Teresa Heinz out of the tub to find out if the reports were true. On Wednesday morning in front of my office in Denver, I made it official. We were free.

Had I not already made up my mind by Friday night, a question that my son, Chris, put to me over the telephone would have clinched the internal debate. "Who really wants you to run?" he asked. "Who out there is just desperate to have you stay in the Senate?"

The question stopped me cold. Here I was, running around from constituency to constituency like the proverbial beheaded chicken, beseeched for beneficences and castigated for a catalogue of calamities.

All of a sudden, it occurred to me that I didn't have to put up with this any more. I could say, like another politician who should realize that his time has come to retire from elective office, "Shut up and sit down." I could leave the field to younger, more enthusiastic knights, as I was 18 years ago.

One reason the Senate had become such a dispiriting place to work was that most of its members felt the same impotence I did in the face of the staggering deficits that had turned the United States Government into a holding operation, rather than an arena for innovation.

A few days after my formal announcement, Wren and I came back to Washington and met for a kind of therapy session with my Senate staff, people I admired enormously and knew I had disappointed. One of them was candid about her reaction to my retirement. "This is incredibly out of character," she said. "You are competitive. You are fighters, and for a lot of us, it's hard to see people we hold up as fighters decide not to fight anymore."

I tried again to explain—the institution, the growing frustration, the money chase, the imminent bitter and destructive campaign, Jack's death, becoming someone I didn't like—and admitted that I, too, was astonished. The place I had thought represented all that was good about this country—the United States Senate—was no longer the place for me.

As usual, though, it was Wren who put our future in proper perspective. "The next fight," she told the staff, "is the one that's really going to count. It's the fight for the future, for our kids, for their kids. What we have to do is take some time off, flush the knots out of our heads and then come back. And it won't be politics as usual, because the environment isn't a political issue; it's the most fundamental issue."

And remember, I thought to myself, there's more than one venue for fighting the fight that counts.●

ISAAC WHITE: ELDER STATESMAN OF THE DEMOCRATIC CONVENTION

● Mr. HOLLINGS. Mr. President, the Democratic National Convention last month was chock-full of sparkling personalities and historic figures. But I took a very special pride in the presence in Madison Square Garden of Isaac White of Laurens, SC.

Isaac White, 88 years old and the son of a slave, was elder statesman of our South Carolina delegation and the most senior male delegate at the convention.

Mr. President, Isaac White is a man of extraordinary experience, a man who has witnessed so much. He grew up in Laurens, scrapped to obtain an undergraduate degree at South Carolina State College, worked 18 years in Harlem, returned to South Carolina to earn a masters degree and teach, and retired as principal of Sanders Elementary School.

Mr. White has been active in politics across virtually the entire span of the 20th century. His father, a contractor in Laurens, was an alternate delegate to the Republican National Convention in 1912, and young Isaac was a precinct worker in New York City for Franklin Roosevelt and, later, Adam Clayton Powell. Currently he served as vice chairman of his Laurens Democratic Party, and as eminence grise of our State Democratic Party.

It is small wonder that reporters flocked to interview Mr. White and gain his perspective—reporters from CNN, the New York Times, the Washington Post, the Chicago Tribune, and other major papers.

I, too, was delighted to share Isaac White's company at the convention. He is a distinguished son of South Carolina, a dedicated Democrat, and a wonderful friend.●

LANDMINE MORATORIUM ACT

● Mr. LEAHY. Mr. President, 2 weeks ago I introduced legislation to impose a 1-year moratorium on the sale, transfer, or export abroad of antipersonnel landmines by the United States.

In addition to the 1-year moratorium on U.S. exports of antipersonnel landmines, it calls on the President actively to seek to negotiate an international agreement to stop the world traffic in these deadly weapons.

I intend to offer my bill, S. 3098, as an amendment to the Defense authorization bill when the Senate resumes action on it.

Mr. President, the response to my bill has been overwhelmingly positive. It now has 33 cosponsors, and the list is growing daily.

I am gratified, but not surprised, by this response. Those who know of the incalculable suffering these weapons have caused to innocent people throughout the world agree with me that we cannot continue to be party to this.

Antipersonnel landmines are used indiscriminately, primarily in insurgencies in poor countries. In the vast majority of instances the victim is a noncombatant civilian, and often an unsuspecting child.

Hundreds of thousands of innocent men, women, and children step on these explosives, which remain undetected for years after the conflict ends. They are either killed or horribly maimed for life.

According to the administration, U.S. sales and transfers of antipersonnel landmines are minuscule—less than $1.9 million in the past 10 years. So my amendment will not have any impact on U.S. jobs, or U.S. security.

Nor does my amendment apply to U.S. production or stockpiles of landmines of all types for U.S. military forces, or to the sale, export or transfer of antitank landmines. It applies only to transfers of antipersonnel landmines abroad, the types that have caused so many senseless civilian casualties.

My amendment is strongly supported by the Vietnam Veterans of America Foundation, and many American private voluntary organizations that work in war-torn countries where landmines have left a legacy of misery.

I ask that the names of the Cosponsors of S. 3098 be printed in the RECORD.

The cosponsors follow:

S. 3098 COSPONSORS

Sponsor: Leahy.

Cosponsors: Kerry, Kerrey, Kennedy, Mikulski, DeConcini, Hatfield, Jeffords, Wofford, Adams, Harkin, Moynihan, Dodd, Cranston, Kohl, Bryan, Riegle, Sanford, Ford, Rockefeller, Akaka, Inouye, Specter, D'Amato, Reid, Mitchell, Simon, Daschle, Sarbanes, Metzenbaum, Pell, Conrad, Lautenberg, Robb.●

RURAL LETTER CARRIERS SAFETY AWARENESS

● Mr. DASCHLE. Mr. President, today I want to pay tribute to the efforts of rural letter carriers in my State of South Dakota, who have taken it upon themselves to improve the quality of their work and the safety of their working conditions. I would like to honor these individuals, not only for the worthwhile cause they are ambitiously promoting throughout my State, but also for the example they have set for all Americans.

Rural letter carriers are dedicated to promoting safety in their profession. In South Dakota, rural letter carriers travel nearly 45,000 miles daily, delivering the mail to over 72,000 rural postal patrons. As rural carriers, these individuals drive the highways and backroads that lead to all corners of my State. The rural letter carriers of my State are truly public servants who have dedicated themselves to providing a vital service to postal patrons who live and work in the countryside.

The work of rural mail carriers is not easy or without risk. Their routes cover my entire State, where many people still live miles from the nearest town. As we all know, mail is delivered all year long, summer and winter, spring and fall, and rural carriers perform their duties regardless of the conditions. Often, the weather in my State creates driving conditions that are not pleasant or safe, yet rural letter carriers counter these risks with careful driving and other precautionary measures. They deliver mail when the wind sweeps across the prairie in the summer, and drive over icy, snow covered roads in winter. They are acutely aware of the challenges they face in their jobs, and they work hard to prevent accidents and promote a safe traveling environment for themselves and the people they encounter on their routes.

South Dakota rural letter carriers have demonstrated their support for safer driving conditions by promoting a designated safety awareness week in both 1991 and 1992. Their efforts have been self-initiated and set a good example for other rural letter carriers, and all Americans, that individuals can make a difference to improve our society. As a result of their efforts, the South Dakota State Legislature has passed resolutions in the past 2 years declaring a specified week as Rural Letter Carriers Safety Awareness Week. This designated week each year has given rural mail carriers a special opportunity to promote safety within their profession and to increase the general public's awareness of rural letter carriers on the roads throughout South Dakota. I admire their efforts and encourage them to continue to promote safety in their work.

As with any initiative, there are certain individuals who have dedicated extraordinary time and effort to the cause of rural letter carrier safety awareness in South Dakota. I would like to take this opportunity to recognize their work. The past president of the South Dakota Rural Letter Carriers Association, Wayne Lubinus, has been a strong supporter of rural letter carrier safety over the years. A Quality of Work Life Workteam, composed of rural carriers and postmasters, has also played a significant role in promoting the cause of greater safety for rural letter carriers in my State. Members of this team include Wallace McGregor, Philip Konechne, Mark Soulek, Don Burmeister, Joan Currier, Gene Hagerty, Elmer Sorenson and Darla Wilson. I admire and appreciate their efforts in their promotion of safety for rural carriers and citizens of South Dakota.

I would also note that a national convention of rural letter carriers is taking place this week. It is my hope that this issue of rural carrier safety awareness will be addressed at this meeting and given the attention it deserves to help minimize the traffic risks that accompany this profession, reduce the number of accidents suffered by rural mail carriers, and raise the public's awareness of mail carriers on the roadways of rural America.

Finally, Mr. President, I would ask that a copy of the South Dakota State Legislature resolution declaring the week of April 27 through May 2, 1992, and the executive proclamation of the Governor of the State of South Dakota be printed in the RECORD following these remarks.

The material follows:

SENATE CONCURRENT RESOLUTION NO. 7

Whereas, the delivery of mail is vital to the businesses and citizens of this state; and

Whereas, the delivery of mail in the rural areas of this state entails driving great distances under extreme weather and road conditions; and

Whereas, the first rural route was started in 1896 and the National Rural Letter Carriers Association was formed in 1903; and

Whereas, there are 306 rural routes, 72,754 rural patrons and 44,899 miles driven daily by rural letter carriers in South Dakota; and

Whereas, a rural letter carrier was killed while on duty near Bridgewater in 1989 and a rural letter carrier was injured near Florence while on duty in 1990; and

Whereas, public awareness of the dangers associated with delivering rural mail is vital for the safety of the carriers and the public: Now, therefore, be it

Resolved, by the Senate of the Sixty-seventh Legislature of the State of South Dakota, the House of Representatives concurring therein, That the week of April 27 through May 2, 1992, be declared Rural Letter Carrier Safety Awareness Week and that the citizens of South Dakota take extra care during this week, and throughout the remainder of the year, to remain alert for rural letter carriers conducting an activity which is vital to the interests of this state.

EXECUTIVE PROCLAMATION—STATE OF SOUTH DAKOTA

Whereas, the delivery of mail is vital to the businesses and citizens of this state; and

Whereas, the delivery of mail in the rural areas of this state entails driving great distances under extreme weather and road conditions; and

Whereas, the first rural route was started in 1896 and the National Rural Letter Carriers Association was formed in 1903; and

Whereas, there are 306 rural routes, 72,754 rural patrons and 44,899 miles driven daily by rural letter carriers in South Dakota; and

Whereas, a rural letter carrier was killed while on duty near Bridgewater in 1989 and a rural letter carrier was injured near Florence while on duty in 1990; and

Whereas, public awareness of the dangers associated with delivering rural mail is vital for the safety of the carriers and the public: Now, therefore, I, George S. Mickelson, Governor of the state of South Dakota, do hereby proclaim April 27 through May 2, 1992, as Rural Letter Carrier Safety Awareness Week in South Dakota, and that the citizens of this state take extra care during this week, and throughout the remainder of the year, to remain alert for rural letter carriers conducting an activity which is vital to the interests of this state.●

NELSON, MULLINS, RILEY & SCARBOROUGH: WINNER OF ABA'S 1992 PRO BONO PUBLICO AWARD

● Mr. HOLLINGS. Mr. President, those of us who are proud members of the South Carolina Bar take enormous pride in the fact that Nelson, Mullins, Riley & Scarborough, our State's largest law firm, has earned the American Bar Association's prestigious 1992 Pro Bono Publico Award for outstanding commitment to volunteer legal services for the poor.

Mr. President, this is richly deserved recognition for Nelson, Mullins, whose commitment to pro bono service has been nothing short of extraordinary; 100 percent of the attorneys at Nelson, Mullins—from the most senior partner to the newest associate—are enrolled and active in the firm's pro bono program, a program that is recognized as an innovative model for such programs nationally.

It is company policy at Nelson, Mullins that pro bono work is as im-

portant as billable work. The firm makes every phase of its practice available to assist in pro bono work—work that encompasses not just standard case work such as evictions, bankruptcies, family court appointments, and criminal cases, but also nonlitigation initiatives that serve the greater good of the community.

Mr. President, the Nelson, Mullins pro bono program is the pride of South Carolina and a model for the entire country. The men and women of Nelson, Mullins exemplify the maxim that Americans needn't be on the public payroll in order to be a dedicated and outstanding public servants. My hat is off to them.•

RETIREMENT OF U.S. MAGISTRATE JUDGE JACOB HAGOPIAN

• Mr. PELL. Mr. President, today I wish to recognize a respected, colorful, and esteemed individual of Rhode Island's legal community, the recently retired U.S. Magistrate Judge Jacob Hagopian. May I add that I personally admire and respect him.

Jacob Hagopian was appointed to the position of U.S. Commissioner in 1971, a job that evolved to become the current U.S. magistrate judge post. Prior to being appointed, Judge Hagopian had already made his mark in the world, serving 26 years in the Army, beginning as a paratrooper in 1944 and rising to hold various legal posts. Among these, Judge Hagopian served as the principal legal advisor to the intelligence community during the Berlin crisis in 1961 and subsequently ascended to the position of appellate judge on the U.S. Court of Military Review, our Nation's highest military court. For his distinguished legal and judicial work to government, Judge Hagopian was awarded the Legion of Merit.

On the Federal bench, Judge Hagopian quickly established and maintained a reputation of competence, accessibility, amiability, and, above all, fairness. He has handled many high profile cases ranging from those involving figures connected to organized crime to the settlement of copyright claims against a national television network. But Jacob Hagopian's legacy as a judge will be his unerring sense of fairness and responsibility to the interests of all parties involved in the matters that came before him. If that meant revisiting the constitutional claims of those in prison years after their conviction, Judge Hagopian did it. If it meant being roused out of bed in the dead of the night to listen to an urgent plea from law enforcement officials seeking search or arrest warrants, Judge Hagopian did it. In this respect, Judge Hagopian has been a public servant of the first order; the interests and good of the community he serves has been at the forefront of both his priorities in life and his conduct of office.

In addition, Judge Hagopian has contributed much to the community outside of his official duties as magistrate. He has taught and lectured at numerous institutions of higher learning including Roger Williams College, Providence College, and Suffolk University Law School. He has published numerous articles in legal journals and served on various professional boards and advisory committees. Judge Hagopian's varied interests and achievements points to his commitment to civic involvement and his pride in community. It is from the dedication of such individuals as Judge Hagopian that our system of government and our way of life here in America works.

All in all, it is with great pleasure that I recognize the achievements of Judge Hagopian throughout his career, from his days in the Army to his tenure on the Federal bench. He has served his country with distinction and integrity and his presence will be missed in the Federal district court. I commend him for his excellent work and wish him all the best in his retirement.•

NATIONAL COMMISSION ON SCHOOL FINANCE TO MEET THE NATIONAL EDUCATION GOALS ACT—S. 3129

• Mr. BINGAMAN. Mr. President, I ask that the school finance bill introduced on August 4 be printed in its entirety in the RECORD.

The text of S. 3129 follows:

S. 3129

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 "National Commission on School Finance to Meet the National Education Goals Act".

SEC. 2. FINDINGS.

The Congress finds—

(1) State governments have for a long time played the principal role in financing America's education system and historically such role has involved heavy reliance upon locally administered property taxes in conjunction with State prescribed per pupil spending minima, while the Federal Government has been a junior partner in such role, contributing approximately 7 or 8 percent of the amount spent on kindergarten through twelfth grade schooling;

(2) the State and local role described in paragraph (1) has traditionally been decentralized;

(3) the rapid evolution of an unusually competitive international economy is altering national education needs and the new strategic resource for nations has become the trained intellect of its citizens;

(4) the United States is attempting to respond to the challenge described in paragraph (3) by debating and implementing education reform alternatives and setting national education goals;

(5) education reforms may have little chance of sustained success and universal achievement of the national education goals may be jeopardized when such reforms are part of a disparate means by which our Nation finances its schools;

(6) the means by which United States schools are financed result in—

(A) spending inequality from school-to-school, district-to-district and State-to-State;

(B) neglected effectiveness such as finance systems paying little heed to outcomes, accountability, or performance, and seldom is an education attainment target posed regarding desired outcomes or performance incentives;

(C) organizational rigidity in which school finance systems are rooted in operational units such as small rural schools, as exemplified by school districts having consolidated in mammoth agencies with cumbersome bureaucratic structures sometimes distant geographically and organizationally from the schools such districts purport to direct; and

(D) confusion caused by school finance system accretion and as a consequence intolerable complexity;

(7) the entire context in which United States education now operates has been altered in the last 2 decades and expectations for education are higher, and on crucial dimensions, the capacity of schools to respond is lower; and

(8) in the absence of alternative school finance mechanisms with adequate and adequately structured resources, the hope of national education goals, national assessments, and a host of other reform alternatives are in jeopardy of foundering on good intentions and rhetoric.

SEC. 3. COMMISSION ESTABLISHED.

(a) ESTABLISHMENT OF THE COMMISSION.—There is established as an independent agency in the executive branch a commission to be known as the National Commission on School Finance To Meet the National Education Goals (hereafter in this Act referred to as the "Commission").

(b) MEMBERSHIP.—

(1) COMPOSITION.—The Commission shall be composed of 12 members, of which—

(A) 2 shall be appointed by the President;

(B) 3 shall be appointed by the Speaker of the House of Representatives;

(C) 2 shall be appointed by the Minority Leader of the House of Representatives;

(D) 3 shall be appointed by the Majority Leader of the Senate; and

(E) 2 shall be appointed by the Minority Leader of the Senate.

(2) SPECIAL RULE.—The membership of the Commission shall provide the Commission with expertise and experience in the provision and financing of elementary and secondary education, including expertise in elementary and secondary school administration, teaching, State legislation, education, economics research, and development of standards and assessments.

SEC. 4. DUTIES OF THE COMMISSION.

(a) STUDY.—The Commission shall study what has been learned from the research on innovations in practice that will help further understanding of what will be necessary and what the cost implications are for achieving the National Education Goals and shall investigate the extent to which—

(1) Federal laws demonstrate a consistent and coherent Federal policy regarding educational equity with respect to resources;

(2) Federal education laws and regulations promote the stated Federal education policy;

(3) there are alternatives to current school finance mechanisms; and

(4) schools and States have the capacity to respond financially to the reform demands

implied in the national education goals and the consequent objectives.

(b) SPECIFIC REQUIREMENTS.—In carrying out its responsibilities under this section, the Commission shall synthesize and evaluate existing information in the following areas:

(1) NEED ANALYSIS:

(A) The cost-effectiveness of different ways of providing educational services.

(B) The role of educational technologies in improving cost effectiveness, program quality and equity.

(C) The efficiency with which schools are managed and the relationship of school management efficiency to increased student learning, especially the effects of variations in the proportion of staff who are directly involved in instruction versus administrative, specialist, or support staff.

(D) International comparisons of expenditure levels, and intergovernmental financial responsibilities for public elementary and secondary education.

(E) Different teaching compensation policies.

(F) Measures of the quality of elementary and secondary education services, and the relationships of such services to costs and outcomes.

(G) The impact of educational spending on student achievement, including the impact of background factors that are known to affect student achievement such as parental income and parental educational level.

(H) The willingness of localities and States to tax themselves to raise education revenues, including the effects of school finance equalization on taxpayer motivation.

(2) FINANCE:

(A) The primary barriers to equalization of school expenditures and the rationale for such barriers.

(B) Trends in State school finance legislation and judicial actions, and the effects of such trends, including the implications of the apparent inability of some States to permanently resolve school finance disputes.

(C) The effect of Federal education assistance programs and Federal, State, or local tax expenditures on equalization of school finance resources.

(D) The effect of school finance equalization on tax burdens.

(E) The effect of school finance equalization on the quality of education, especially education offered by local school districts with much higher than average and much lower than average expenditures per pupil before the equalization measures were implemented.

(F) The effect of population sparsity, density, and migration, on educational needs and costs.

(G) The effect of educational costs of Federal or State mandates that are not fully funded by the level of government that establishes the mandate.

(H) The effectiveness of financial incentive grants such as merit school programs or financial sanctions on schools and local educational agencies.

(3) DATA GATHERING:

(A) A detailed examination of the State programs supporting elementary and secondary education, whether public or private, including each program's purpose, eligibility criteria, restrictions on use by local educational agencies, funding mechanisms or formulas, type of tax or other revenue source, aggregate funding level, and distribution of grants among local educational agencies.

(B) An analysis of all revenue available to each local educational agency in the United States, including—

(i) the source of such revenue, such as a property tax, sales tax, personal income tax or lottery; and

(ii) which level of government (Federal, State, intermediate or local) provides each such local educational agency with such revenue.

(C) An analysis of all revenue expended in the United States on elementary and secondary education including Federal, State, local and private sources.

(D) Any available information on differences in the costs of providing elementary and secondary education by State, and by local educational agencies within States;

(E) Differences in tax rates and, to the extent possible, property assessment policies and practices, among local educational agencies within each State.

(F) Information about—

(i) the nature and responsibilities of each local educational agency in the United States, including identification of grade levels served, and whether each such local educational agency actually operates schools; and

(ii) intermediate or special service local educational agencies, such as those agencies providing vocational education or education for the disabled in States.

(G) The extent to which educational technology introduced into the classroom may be cost-effective and what may be the Federal role in bringing technology into the classroom.

(c) REPORTS AND RECOMMENDATIONS.—The Commission shall prepare and submit to the Congress an interim report within 18 months of the date of enactment of this Act and a final report within 2 years of such date. Such reports shall—

(1) summarize the appropriate findings of the Commission;

(2) provide to the Congress a comprehensive analysis on the extent to which a consensus exists regarding the appropriate roles of Federal, State and local government in supporting school and State finance reform;

(3) provide an analysis of the resources that will be needed at the school, district and State level to achieve the national education goals; and

(4) provide an analysis of the capacity of State school finance systems to provide the resources necessary to meet the national education goals.

SEC. 5. ADMINISTRATION OF THE COMMISSION.

(a) RATE OF PAY.—Members of the Commission who are not full-time officers or employees of the United States and who are not Members of Congress may, while serving on business of the Commission, be compensated at a rate not to exceed the rate specified at the time of such service for level IV of the Executive Schedule as authorized by section 5315 of title 5, United States Code, for each day, or any part of a day, they are engaged in actual performance of Commission duties, including travel time; and while so serving away from their homes or regular places of business, all members of the Commission may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of title 5, United States Code, for persons in government service employed intermittently.

(b) TEMPORARY EXEMPTION.—Subject to such rules as may be adopted by the Commission, the Chairperson, without regard to the provisions of title 5, United States Code, governing appointments in the competitive service and without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates, shall have the power to—

(1) appoint a Director or Executive Director who shall be paid at a rate not to exceed the rate of basic pay payable for level IV of the Executive Schedule; and

(2) appoint and fix the compensation of such other personnel as the Chairperson considers necessary at a rate not to exceed the rate of basic pay payable for level IV of the Executive Schedule.

(c) AUTHORITY TO CONTRACT.—Subject to the Federal Property and Administrative Services Act of 1949, the Commission is authorized to enter into contracts or interagency agreements with Federal and State agencies, private firms, institutions, and individuals for the conduct of activities necessary to the discharge of its duties and responsibilities.

(d) SOURCE OF ADMINISTRATIVE SUPPORT.—Financial and administrative support services (including those related to budget and accounting, financial reporting, payroll, and personnel) shall be provided to the Commission by the General Services Administration (or other appropriate organization) for which payment shall be made in advance or by reimbursement from funds of the Commission, in such amounts as may be agreed by the Chairperson of the Commission and the Administrator of General Services.

(e) AUTHORITY TO HIRE EXPERTS AND CONSULTANTS.—The Commission is authorized to procure temporary and intermittent services of experts and consultants as are necessary to the extent authorized by section 3109 of title 5, United States Code, but at rates not to exceed the rate specified at the time of such service for level IV of the Executive Schedule. Experts and consultants may be employed without compensation if they agree to do so in advance.

(f) AUTHORITY FOR DETAIL OF EMPLOYEES.—Upon request of the Commission, the head of any Federal department or agency is authorized to detail on a reimbursable basis, any of the personnel of such department or agency to the Commission to assist the Commission in carrying out its duties under this section.

SEC. 6. TERMINATION.

The Commission shall terminate 3 years after the first meeting of its members.

SEC. 7. DEFINITIONS.

For the purpose of this Act—

(1) the term "elementary school" has the same meaning given to such term by section 1471(8) of the Elementary and Secondary Education Act of 1965;

(2) the term "local educational agency" has the same meaning given to such term by section 1471(12) of the Elementary and Secondary Education Act of 1965;

(3) the term "national education goals" means the national education goals established pursuant to the education summit held in Charlottesville, Virginia in 1989;

(4) the term "secondary school" has the same meaning given to such term by section 1471(21) of the Elementary and Secondary Education Act of 1965; and

(5) the term "State" has the same meaning given to such term by section 1471(22) of the Elementary and Secondary Education Act of 1965.

SEC. 8. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated $5,000,000 for each of the fiscal years 1993 and 1994, and such sums as may be necessary for fiscal year 1995 to carry out this Act.•

HISPANIC FESTIVAL

• Mr. SARBANES. Mr. President, I rise today to pay tribute to the Hispanic community of Maryland and the tremendous contributions made by Hispanic citizens to our Nation at the local, State, and national levels.

Mr. President, I recently attended the annual Hispanic Festival of Baltimore and was deeply moved by the eloquent statement of Dr. Jose Maria Albornoz-Ruiz, speaker of the Federation of Hispanic Organizations of the Baltimore metropolitan area. As Dr. Albornoz points out in his statement, the Latino community in the United States represents one of the fastest growing segments of our population. According to the 1990 census, the Hispanic-American community is an increasingly significant group in Maryland, located primarily in the southeast Baltimore area and the District of Columbia's Maryland suburbs. In fact, there has been a 144-percent increase in the Hispanic population of Montgomery County. Along with these demographic increases, however, serious problems such as high unemployment and the lack of adequate housing continue to affect Hispanic families struggling to make ends meet during the current economic recession. It is heartening to find that the community has rallied together during these difficult times, notwithstanding the severe cutbacks in Federal assistance to vital State and local programs.

The Hispanic Festival of Baltimore offers a unique opportunity to Hispanics to educate the general public about the diversity and richness of tradition and culture within the Latin community in Maryland. Indeed, the festival allows the public to experience firsthand a multitude of customs on display. We in the State of Maryland are particularly fortunate to have the benefit of sampling this hard-working community's proud and distinct heritage. The festival reveals the remarkable variety of a culturally flourishing community represented by various nations in the Americas including El Salvador, Mexico, Puerto Rico, Colombia, Guatemala, Peru, Ecuador, and others.

Next month, the National Hispanic Heritage Month will be observed officially from September 15 to October 15, ending with the quincentenary anniversary of Columbus' voyage. In view of this upcoming celebration, it gives me great pleasure to bring to the attention of my colleagues a very thoughtful statement by Dr. Albornoz. I ask that it be entered into the RECORD.

The statement follows:

The Hispanic Festival is our once-a-year opportunity to display our culture and our community's heritage. It is the visible expression of the dedicated efforts of many members of our community and the culmination of the labor of honest and hardworking groups of women and men, seeking our rightful participation in the life of the city, the State, and the country. Some of you may be surprised to know that there are about forty-five Hispanic organizations in the Baltimore area, which goes to show that an advanced degree of community organization has already been achieved. Hopefully, this will soon find expression in the open political arena, bringing Hispanics to where the power and the resources are.

It is a circumstance of this year's festival that it coincides with the celebration of the quincentenary of the discovery of America—October 12, 1492–October 12, 1992. 500 years of history! A lapse of time that cannot be encompassed by a single human existence. There can be no surviving eyewitnesses and passing generations must accept tradition, oral and written, to illuminate the knowledge of things past. We hear some argument as to what Columbus' discovery really means, as in the current debate over the political correctness of the standard historical version as opposed to multicultural ethnic interpretations. Notwithstanding, people continue to weave contemporary meaning into the ritual celebration of anniversaries, when we as a human family try to answer again and again the questions: Who are we, why are we here, and where are we going. Whether as a result of an extraordinary discovery or a collision of the races, we are the survivors. We are the product and consequence of events we can no longer control, but we accept our destiny with pride and hope.

We Latins have a commitment and unmistakable devotion to freedom and democracy, and therefore view our experience in America as a privileged opportunity to lend a helping hand to their survival.

We are here to celebrate that we have survived the potentially disastrous pitfalls of a transcultural journey; that we have brought with us to America a long tradition of courage and resourcefulness; and that the values inherited from our parents continue to nurture a new generation of Americans.

Side by side with this momentous occasion, we also celebrate the 19th Hispanic Festival in Baltimore. Yet, despite this festive atmosphere that surrounds us, we share with the rest of the country the apprehension and concern about human needs that have not been met and that threaten the stability of our institutions. We know that there are people suffering and waiting for their opportunity to share in the American dream. We watch warily as our leaders search for reasonable answers to seemingly insurmountable problems. It becomes obvious that our country needs us; that each and every one of us must be ready to do his best to ensure the common good and to participate with restraint and wisdom as is only proper when vital issues are at hand. We know the strength in our values as a community have allowed us to achieve a constructive integration with the fabric of our multiethnic city. We recognize that our future—the future of American society—has to be predicated in respect for the diversity of the human being and with total dedication to the survival of democracy as the best and only viable source of human freedom and dignity.

We should say that we are here to show our gratitude to this country, whose generosity opened the door for us, and has allowed us to integrate, to belong, to grow and prosper, to be part of the most advanced society in the world.

Carlos Cifuentes, a distinguished Mexican writer, has announced that we are in the process of the Latinization of America. I don't quite understand the statement. Perhaps it is a reference to our demographic status; but I would like to believe he means that we have finally acquired the consciousness of what it is to be a part of this society; that we must give as well as take; that we have recognized that culture and fanaticism are mutually exclusive; that the beauty, the warmth, the deep appreciation of life that all Latins carry in their veins will merge with all other ethnic sources to make this truly one powerful and secure country where the highest ideal of mankind may live forever.•

TOGO

• Mr. SIMON. Mr. President, this Chamber has born witness to an anguished discussion, in recent days, on the tragic situation in former Yugoslavia. That has focused our attention, inevitably, at the expense of other situations of horrific human suffering as in Somalia.

But I take the floor today to call attention to a situation that has been largely ignored. It has not yet developed into the kind of tragedy that would force us into an arduous debate as to how the United States and the international community should respond. But there is one lesson from the other conflicts that now burden us. It is that we have consistently acted too late, when much could have done to prevent them from degenerating into the scenes of suffering that fill our nightly newscasts.

I speak of the deteriorating situation developing in the small West African nation of Togo. That country is one of the many African nations taking the courageous step from an authoritarian regime to a multiparty, democratic system of government.

But these efforts have been halting and painful. Since a national sovereign conference in August 1991 charted a path to free elections and the establishment of a multiparty democracy, there have been numerous setbacks: coup attempts in October 1991, the storming of the Prime Minister's office in December, and escalating violence against political leaders in recent months. The period of transition to democracy has been characterized by mistrust and insecurity.

In spite of these challenges, a referendum has been scheduled for August 23 on a new, democratic constitution.

It is clear that there are powerful interests within Togo who do not wish to see that referendum take place. The latest incident occurred this past weekend when armed men smashed electoral computers and voter registers.

Togo's President of 25 years, General Eyadema, has not yet agreed to authorize the referendum. And the former state-party which he founded said that the referendum was illegal.

It is essential that the referendum scheduled for August 23 take place. Five days later, on August 28, marks

the end of the 1-year transition period set out in earlier provisional constitution. If the referendum on the new constitution is not held, there is a danger that a power vacuum could arise, and with it too much scope for arbitrary and self-determined action beyong the reach of normal constitutional authority.

We must not allow such a development to force us to respond. Parliamentarians for Global Action, a network of national legislators of which I am a member and which focuses on African democracy, has already mounted two delegations of the Togolese capital, Lomé. But we cannot act alone. We must make clear that the August referendum is to proceed.

I appeal directly to President Eyadema, and all parties, to ensure that the referendum proceeds, and that it proceeds within conditions of full freedom, fairness, and security. I appeal to him to show the courage to lead Togo to democracy through free and fair elections.

And I call upon my colleagues in this Chamber and indeed in the world's parliaments, as well as the Bush administration, and the international community as a whole, to continue to be vigilant, and to be united in stating that democracy must prevail in Togo. We shall be watching.●

THE MANUFACTURING CAMPAIGN

● Mr. JOHNSTON. Mr. Chairman, some interesting information came to my attention in the National Journal Convention Daily during the recent Democratic Convention. I learned more in a subsequent meeting with Jerry Jasinowski, the President of the National Association of Manufacturers. I want to share some of this information with my colleagues because I feel that it is relevant to a wide variety of policy deliberations of this body.

What stood out is that the U.S. manufacturing sector has recently developed very positive trends relative to other U.S. business sectors. These trends show that in general manufacturing contributes more to the Nations economic growth than is generally appreciated.

I learned that while overall U.S. productivity has been stagnant over the last decade, U.S. manufacturing productivity has been growing at a healthy clip, comparable to its successful foreign competitors. American manufacturers in many sectors have regained their international competitiveness thanks to this productivity growth, quality improvements and realigned exchange rates.

Most of the economic growth in this country over the last several years has resulted from the rapid growth in exports of manufactured products. This last recession would have been far worse and of much longer duration were it not for the recent boom in exports of U.S. products and resulting decline in our trade deficit.

The export growth has occurred not as a result of, but largely in spite of Federal policy. While manufacturers have some kind words for the role of some States in developing export promotion programs, they believe that the Federal support is inadequate.

Another thing that stands out is the difference that continues to exist between the kinds of jobs that exist in manufacturing versus other business sectors. For one thing manufacturing workers' pay is about 15 percent higher than the average in other business sectors. Perhaps more importantly 98 percent of manufacturing employees and their immediate families receive employer paid workplace health benefits. A much smaller proportion of other business sectors offer health benefits packages. In this era of skyrocketing health care and other benefits costs, its important that at least one sector of the business community is apparently a major contributor to the availability of health care benefits in the Nation. Indeed many workers in the service and retail sectors have health insurance only because a spouse works for a manufacturer who offer such benefits.

The implication is that support and stimulation of our manufacturing sector might itself be a potential solution to economic and other policy challenges faced by this body. To the extent that we can create more and better jobs in this sector, we will simultaneously help improve the standard of living in this country, help reduce our trade imbalance, and help reduce the number of Americans without health care coverage and other important health.

I bring these thoughts to you as a challenge to begin your thinking in that regard. I enter the document Facts About Modern Manufacturing into the RECORD to provide further information for your consideration.

The document follows:

FACTS ABOUT MODERN MANUFACTURING

". . . the very essence of business is manufacturing."—Akio Morita, CEO, Sony.

"Manufacturing is the engine of economic growth."—Paul Tsongas.

If people as different as Akio Morita and Paul Tsongas can get the picture about manufacturing why can't Washington? Too many policymakers and their staffs see manufacturing as obsolete. That's a dangerously mistaken notion. Outdated views lead to bad policies, and bad policies have plagued manufacturing for too long.

There is a growing debate around the country about the true contributions of modern manufacturing to economic growth and our country's future. People listen as candidates are beginning to talk about a successful manufacturing sector, jobs, innovation, economic growth and export expansion. Political debate opens a window of opportunity.

THE GOAL: A NEW VIEW OF MANUFACTURING

With all eyes focused on the economy, American manufacturers have a chance to alter dramatically the way Washington—and the Congress—views industry. The Manufacturing Campaign is designed to replace outdated myths with a modern view about innovative manufacturing. By hammering home the message that "Manufacturing Helps America Grow," we can:

Emphasize manufacturing's many contributions to the American economy and our way of life

End Washington's cycle of abuse and neglect of manufacturing

Promote pro-manufacturing, pro-growth public policies.

MANUFACTURING MYTHS

Manufacturing helps America grow. For two centuries, America's manufacturing sector has led our nation to levels of prosperity and a standard of living that remain the envy of the world.

But what do policy makers know and think about manufacturing? Ground-breaking research by Peter Hart Associates has unmasked a dangerous "perception gap" on Capitol Hill.

Members of Congress and their staffs see American industry as having arrogant managers running dirty, unsafe, obsolete factories. People who should know better buy the myth of a post-industrial society. They think American productivity is falling and fear that U.S. products can't compete globally. No wonder Congress passes laws which retard growth and destroy American jobs!

MYTH-BUSTERS

The Manufacturing Campaign is replacing manufacturing myths with manufacturing facts:

During the entire post-war period manufacturing's direct contribution to economic growth has remained relatively stable at more than one-fifth of GNP. Add what manufacturers spend for services, and manufacturing accounts for nearly half of America's economic activity. Tales of a post-industrial U.S. society are fiction.

American products are winning in international competition. U.S. exports doubled between 1986 and 1991. The extraordinary growth of manufacturing exports slashed the trade deficit from $156 billion in 1987 to $66 billion today. A trade balance is on the horizon.

Innovative U.S. manufacturing spurs growing productivity—an average annual increase of roughly three per cent over the last decade. That's three times the national average for the economy overall. American industry is more productive than most overseas manufacturers including Germany and close to Japan. Declining productivity in manufacturing is a myth.

THE MANUFACTURING CAMPAIGN

The Manufacturing Campaign is a targeted, long-term joint project of the National Association of Manufacturers to change the terms of debate about manufacturing in this country. It has become a top priority in the executive offices of a growing number of this country's most farsighted companies.

The Manufacturing Campaign is neither a national advertising campaign nor a lobbying effort geared to specific legislation. Rather, it is a tightly-focused plan to educate policy makers and their staffs directly about the importance of modern manufacturing to economic growth and the economic future of the United States.

The Campaign is already underway: Leaders of industry are promoting a pro-growth, pro-manufacturing American agenda at both Republican and Democratic platform com-

mittees. Legislators are seeing modern manufacturing facilities firsthand on plant tours. Manufacturers are briefing legislators one-on-one on manufacturing's contributions to a strong economy. Non-incumbent Senate and House candidates are getting the word. Major media events are taking place. Governors and senior officials in key states have pledged support for export conferences.

A primer focusing on the Facts About Modern Manufacturing is in print. New, innovative manufacturing products are being showcased. Work has begun on The Power of Modern Manufacturing, a hardcover book of American success stories. Television programs, videos, bulletins, pamphlets, factbooks, how-to guides, speeches, op-eds, articles, and issue papers are ready for a multi-year roll-out through 1995.

But this multi-dimensional Manufacturing Campaign will not stop there.

As the debate spreads to the White House, Congress, the administration and in the media, the Campaign's messages will resonate into state houses, legislatures, homes and classrooms across America building momentum for a policy agenda that strengthens manufacturing.

A PRO-MANUFACTURING, PRO-GROWTH PUBLIC POLICY

Closing the "perception gap" and bringing an end to Congress's abuse and neglect of manufacturing is not enough.

As myths are debunked, the focus shifts toward creating a pro-manufacturing, pro-growth policy agenda.

Reduction of the federal budget deficit, tax incentives for investment, emerging technology and innovation, maintenance of low interest rates, opening foreign markets, promoting exports, reduction of the regulatory and legal burdens on manufacturers, improved education and training, and health care reform are vital to manufacturers.

A Congress that knows that manufacturing helps America grow will enact policies that help manufacturing thrive. That means more economic growth, more markets for U.S. products, more good jobs, fairer taxes and less unnecessary regulation.

The Manufacturing Campaign will build a new coalition for a promanufacturing progrowth agenda by changing the terms of national economic policy debate.

HELP WANTED—MESSENGERS

No one can tell Manufacturing's story better than manufacturers and their workers. No one will be hurt more than manufacturers and their workers if this story is not told.

Manufacturing leaders—top executives of companies large and small and their employees—can tell our story best. Unions and their members, state manufacturing associations and vertical trade groups have an important role to play as do civic associations at the community level. Sympathetic politicians should be encouraged to educate their colleagues.

How can you help? First, use Campaign materials to get the latest word on the facts about modern manufacturing. Then, open your plant to legislators and aides, deliver a speech, hold a news briefing, talk to your representative or senator, and tell your success stories.

FUELING THE CAMPAIGN

More than $2 million in contributions from manufacturers and associations has gotten this vital, educational campaign started.

Now is the time to shift into high gear. Your financial contributions and commitments of time are needed for the Manufacturing Campaign to reach its goals. Your help is needed now to end public policy abuse and neglect of manufacturing and to build a new coalition supporting a pro-growth, promanufacturing public policy agenda.

Join these original supporters in putting muscle into The Manufacturing Campaign: Air Products & Chemicals, Inc.; Armstrong World Industries, Inc.; The Boeing Company; Cooper Industries, Inc.; Emerson Electric Co.; Goodyear Tire & Rubber Company; Harley-Davidson, Inc.; Harris Corporation; Maytag Corporation; North American Philips Corporation; NYNEX Corporation; Occidental Petroleum Corporation; Phelps Dodge Corporation; The Procter & Gamble Manufacturing Company; Rubbermaid Incorporated; Texaco, USA; 3M; Westvaco Corporation; Whirlpool Corporation—and more are joining every day.

Work with associations such as these to get manufacturing's message across. The Air Conditioning and Refrigeration Institute; American Hardware Manufacturers Association; American Paper Institute; Association for Manufacturing Technology; the Aluminum Association, Edison Electric Institute; Pharmaceutical Manufacturers Association.

Maufacturing is important to America. The Manufacturing Campaign is vital to manufacturers. Its goals are sound. So is the plan for reaching them. Work with me, The National Association of Manufacturers and The Manufacturing Institute to make this campaign a success.

JERRY J. JASINOWSKI,
President,
The National Association of Manufacturers.

TO PROVIDE FUNDING FOR DES RESEARCH AND EDUCATION

• Mr. D'AMATO. Mr. President, I rise today to join my distinguished colleagues, Senators HARKIN and CRANSTON, as a cosponsor of S. 2837. This bill would amend the Public Health Service Act to provide a program to carry out research on the long-term health effects of exposure to the drug, diethylstilbestrol, better known as DES, and to provide for public education programs regarding the various health problems that have been linked to this drug.

DES was widely prescribed for 30 years, from 1941–70, until it was banned by the Food and Drug Administration in 1971. During this period an estimated 5 million women took the drug to prevent miscarriage. It was commonly used in the 1950's and 1960's and was, in fact, advertised as a means of promoting complication-free pregnancies and "bigger and stronger babies." We know now that use of the drug had exactly the opposite effect.

There are an estimated 10 million DES-exposed daughters and sons. One of two DES daughters will have reproductive problems, with one out of a thousand having a very rare clear cell cancer, fatal in 20 percent of the cases. DES sons may have infertility problems. Mothers who took the drug run an increased risk of breast cancer. There have been birth defects, such as cerebral palsy, occurring in the children born of the DES daughters. This is a drug that is producing three generations of heartache.

DES and related injuries received attention and publicity in the 1970's and early 1980's. Unfortunately, in recent years, this problem has not received nearly the attention it deserves. There have been no comprehensive attempt to reach the potentially exposed young women to encourage them to seek regular medical exams. Nor have we tried to reach young women and men to help them understand and cope with infertility problems associated with DES. Since 1984, there has been no funding for the Herbst Registry of clear cell cancer patients, the authoritative study cited in medical literature and legal cases.

This bill will provide $2 million in funding over fiscal years 1993–95 for public and health professional education and for longitudinal research studies of exposed individuals. We still face important questions that need to be answered. We don't know the effect on the next generation, the children of DES daughters. We don't know the full impact on the DES sons. In fact, we still don't know how many mothers took DES or how many daughters and sons were exposed to DES. These are basic questions for which it is our responsibility to help find the answers. This research has broader scientific value also. It can help teach scientists about the role of estrogen hormone drugs on female health to be applied more broadly to populations not exposed to DES by contributing to our understanding of the development of breast cancer and cancer risks associated with oral contraceptives.

I urge my colleagues to join me in supporting this important legislation. By establishing and funding this DES program, we can provide information and help to three generations facing the medical problems and grief of DES exposure.•

TRIBUTE TO MS. CHRISTINE COMBS

• Mr BRYAN. Mr. President, I rise today to recognize one of Nevada's outstanding citizens, who, through her service to the State and its veterans, has shown how much can be gained for others through compassion and understanding. Ms. Christine Combs has been a public servant of my State of Nevada for over 10 years.

Prior to serving with the Las Vegas Police Department for the last 10 years, Ms. Combs worked with the Parole and Probation Department of Corrections in the State of Arizona. She recently was the chaperon for the Boulder City Electric Jam Dance Youth Program in 1990–91 and served as youth coordinator for District 12.

Along with raising two children, one of Ms. Combs' greatest accomplish-

ments is the founding of "Operation Godspeed" in February of 1991. Operation Godspeed was established by Ms. Combs to support families of troops during the Persian Gulf war. In addition to selling and giving out over 1,000 American flags during the war for display by Boulder City residents and businesses, the organization has continued to grow and thrive after the war. Operation Godspeed arranged for Persian Gulf veteran Sergeant Houser to visit his pen pals at Andrew Mitchell Elementary School, acquired a riding lawn mower and backhoe for the Southern Nevada Veterans Memorial Cemetery, and organized Boulder City's first annual God Bless All Veterans Memorial Day parade which was held on May 27, 1991. Operation Godspeed also established Veteran's Memorial Park, a park dedicated to the veterans of all wars and arranged for the moving wall, a replica of the Vietnam Veterans Memorial, to be exhibited in Boulder City.

Ms. Combs has been honored by several organizations for her great achievements. Beta Sigma Phi showed its appreciation to her by naming her Lady of the Year 1991. She has also been recognized by the city of Boulder City, and many community leaders. I join these individuals in paying tribute to a remarkable woman and her positive endeavors in the Nevada community. She serves as an example to Nevadans as well as citizens across the United States.•

HONORING DACIA BURKE ON HER PROMOTION

• Mr. D'AMATO. Mr. President, I rise today to pay tribute to a woman who has proven that leadership can take many forms, Mrs. Dacia Burke. Just recently, Ms. Burke was given a promotion from claim representative to outside claims manager at the Aetna Insurance Co. For nearly 3 years, she has served with much distinction as a claims representative at Aetna, working in the increasingly complex field of insurance litigation. A mother of two boys, Ms. Burke has worked for years to provide leadership to her family, her colleagues, and all those who have had the pleasure of knowing her.

The insurance industry today is undergoing rapid change. Changes in the law, increased regulation, and financial hard times have made jobs in the insurance industry more difficult for anyone in the field. All the while, Ms. Burke has accepted the challenge of her job and achieved a record of success rarely matched in her office. She has labored over accidents, cases, legal briefs, policy handbooks, and untangled it all into a comprehensive understanding of the insurance industry.

We all well know how intense working in the field of insurance can be. Dacia Burke has shown that through sheer dedication and relentless effort one can succeed in any industry. I commend Ms. Burke and all the fine men and women who work in the insurance industry for their dedication, and recommend that my colleagues do the same.•

"LENNON REPORT"

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• Mr. D'AMATO. Mr. President, The "Navy Report on the New Attack Submarine," or "Lennon Report", outlined a concept study for *Centurion* that explored the relationship between size and military capability in three displacement ranges: First, 5,000–6,000 tons; second, 6,000–8,500 tons, and third 8,500 tons. No designs above 8,500 tons were seriously considered, because, in that range, it made more sense to simply continue building the *Seawolf*. Designs in the 5,000–6,000 range, one of 5,007 tons and the other of 5,800 tons, were rejected at the low end for shock, firefighting, equipment redundancy, and bulkhead design to collapse depth inadequacies and at the high end for speed and missile launch rate shortcomings. The report concluded that designs in the 6,000–8,500 range offered the ideal combination of capabilities.

I was perplexed by one aspect of the Navy's findings: The speed of the 5,800 ton design. A mere 200 tons separates a design that falls well short of the Chief of Naval Operations; minimum speed requirement for the *Centurion* from a design that comfortably meets the CNO's requirement. My question is, What happened to the hull form, reactor, and main propulsion unit of a 6,000 ton design to drive performance down to the levels projected for a 5,800 ton submarine? What combination of weight, diameter, power, speed, and efficiency in a 5,800 ton design could cause such a precipitous decline in capability as compared to a 6,000 ton design? These questions need to be answered, and I intend to put them to the Navy.

By now, some may be asking: What difference does it make whether *Centurion* is 5,800, or 6,000, or 7,000 tons? The difference is cost and performance, but the key is cost. The success or failure of the *Centurion* Program boils down to one crucial element: Affordability.

The "Lennon Report" argues that "the primary method of reducing the acquisition cost—of submarines—is to carefully match military capabilities to operational and mission needs." This differs substantially from earlier Navy testimony that major savings in submarine costs can only be achieved by significantly limiting size and displacement. According to the Navy, construction cost, which represents two-thirds of the acquisition cost of a submarine, "is directly relatable and proportional to displacement". For that reason, I would argue that, because affordability is the one nonnegotiable characteristic of the *Centurion*, holding displacement to the lowest possible level is critical.

I am very concerned that the Navy has given short shrift to designs in the 5,000–6,000 ton range. If submarines in this range cannot meet the minimum standards necessary to survive the threat of the 21st century, then the Navy needs to explain carefully, thoroughly, and openly just what the deficiencies of low end subs are? If a larger boat is in order, the Navy needs to be equally forthcoming in explaining its advantages. The "Lennon Report" is an important first step, but it is only the first step. I look forward to a lengthy and detailed exchange between Congress and the Navy over the next several years on this and other matters related to *Centurion*.•

JUDGE SUSAN H. BLACK

• Mr. MACK. Mr. President, yesterday, the Honorable Susan H. Black, nominee for the Eleventh Circuit Court of Appeals, was confirmed by the Senate. I would like to take a few moments to acquaint my colleagues with Judge Black's fine credentials.

Judge Black currently serves as chief judge of the Middle District of Florida and has been recognized for her accomplishments both as an attorney and as a judge.

Judge Black's legal achievements were first noticed when, as a student at the University of Florida College of Law, she received the "Book Award" for earning the highest grade in constitutional law. Since then, she has earned many other honors and awards, including the University of Florida Distinguished Alumnus Award and the Florida Publishing Company "Eve Award." She is also a member of Florida Blue Key and the University of Florida President's Council.

As well as being an outstanding example for all lawyers, Judge Black is a special role model for women in the legal profession, frequently paving the way for others. She was Jacksonville's first female prosecutor, assistant city general counsel, and county judge. In 1979, she became Florida's first female Federal judge.

Judge Black has given generously to the legal community. Literally dozens of committees have benefited from her experience and insight, including both the Florida Civil and Criminal Procedure Rules Committees, the Committee on Court Administration and Case Management, and the Committee on Judicial Improvements. She has been a strong presence in the area of continuing legal education, and is a member of the Judicial Administration Division of the American Bar Association, and the Eleventh Circuit and Florida State-Federal Judicial Councils.

Judge Black has also contributed to her own community. She was recently

involved in a parish outreach program to aid disadvantaged children and the elderly, in addition to being involved in other projects that help the indigent. Much of her remaining free time goes toward implementing programs to rehabilitate juvenile and adult offenders, and offer them alternatives to a life of crime.

I believe Judge Black's 20 years of service to the State and Federal judiciary, the respect and admiration she has earned from her colleagues and community, and her commitment to judicial restraint indicate that she is well-qualified to fill this vacancy on the Eleventh Circuit. I am confident she will continue to be an asset to the Federal judiciary.•

CAPTIVE NATIONS WEEK

• Mr. SYMMS. Mr. President, on July 15, President Bush proclaimed July 12, 1992, as the Captive Nations Week. President Bush called on all Americans to celebrate the growth of liberty and democracy around the world and to remain vigilant and resolute in the defense of human rights.

In his remarks, President Bush recalled the recent events in the Communist world. Millions of people who suffered under Soviet domination and Communist rule are now free. The Iron Curtain and its most despised symbol, the Berlin Wall, have fallen. As a result, today we celebrate the existence of a unified Germany, as well as the independence of the Baltic States, Central European countries, and the new republics of the former Soviet Union.

These events benefit every American. The free world's triumph in the cold war gives us a chance to establish a lasting peace for us and for future generations.

But our work is not finished. In Asia, Latin America, and other regions, some nations are still struggling to be free. The United States should continue to speak out against those countries that continue to deny their people basic human rights in stark violation of both the letter and the spirit of international human rights agreements.

President Bush's announcement reaffirms our commitment to liberty and self-government and to express our solidarity with all those peoples seeking freedom, independence, and security.

Mr. President, I ask that President Bush's Captive Nations Week proclamation be printed in the RECORD.

The proclamation follows:

CAPTIVE NATIONS WEEK, 1992—A PROCLAMATION

When Americans first observed Captive Nations Week in 1959, repressive communist regimes had overtaken nations from Central and Eastern Europe to mainland China and overshadowed many others with the very real threat or expansionism. Three years earlier, forces of the Soviet Union had brutally suppressed a popular movement for freedom in Hungary; some 16 years before that, the Soviets had invaded Poland and achieved the forcible annexation of Lithuania, Latvia and Estonia. In 1959, the United Nations had only recently ended its efforts to thwart communist expansionism below the 38th parallel in Korea, and a communist-led insurgency had already begun to threaten South Vietnam. At a time when millions of people were enslaved by Soviet domination or subjugated by proxy, at a time when countless others were terrorized by the threat of communist aggression and subversion, Americans paused during Captive Nations Week to reaffirm our commitment to liberty and self-government and to express our solidarity with all those peoples seeking freedom, independence, and security.

Today, 33 years after our first observance of Captive Nations Week, millions of people who suffered under Soviet domination and communist rule are free. The Iron Curtain and its most despised symbol, the Berlin Wall, have fallen—toppled by courageous individuals who would no longer stand the denial of their fundamental human rights. Today we celebrate the existence of a free and unified Germany, as well as the independence of the Baltic States Central European countries, and 12 new states that replaced the U.S.S.R. In Afghanistan and Angola, where bloody civil war against Soviet-supported, Marxist-Leninist regimes left thousands dead and millions of others homeless, chances of achieving lasting peace have reached their highest level in years.

As we celebrate the hope of peace and freedom in these and other once-captive nations, we also remember the many courageous, freedom-loving men and women who resisted tyranny and oppression—often at great personal cost. These include the thousands of dissenters who risked imprisonment, exile, and death in order to demand rights that we Americans enjoy: freedom of religion, speech, and assembly, as well as the right to a fair trial and to protection against unreasonable searches and seizures. They include prisoners of the gulag who remained devoted to liberty despite suffering hunger, torture, and long periods of solitary confinement; and they include selfless religious leaders such as Father Jerzy Popieluszko of Poland. Cardinal Josef Mindszenty of Hungary, and Cardinal Josyf Slipyj of Ukraine, who inspired countless others by their unshakeable belief in the God-given rights and dignity of the human person. From broadcasters at the Voice of America and Radio Free Europe/Radio Liberty, who pierced the Iron Curtain with words of hope and truth, to freedom-fighters in Nicaragua and other Latin American countries who led popular resistance to local despots and to political and military interference from Cuba and the Soviet Union—the men and women whom we remember this week never lost their faith in freedom and in the inevitable triumph of liberty and justice.]

As we recall all those who labored and sacrificed to hasten the demise of imperial communism and to liberate the world's captive nations, we must also remember those peoples who remain subject to regimes that continue to deny basic human rights in stark violation of both the letter and the spirit of international human rights agreements, as well as fundamental standards of morality. The United States will continue to speak out against egregious human rights violations in Cuba and elsewhere, and we shall continue to warn the world's newly emerging democracies against another kind of subjugation: the tyranny of ethnic hatred and nationalist rivalries. History has shown how these evils can produce their own form of captivity: a vicious cycle of violence, political repression, and economic stagnation and loss. As this observance of Captive Nations Week reminds us, freedom and peace are precious blessings that require the faith, the will, and the wherewithal to preserve and strengthen them.

The Congress, by Joint Resolution approved July 17, 1959 (73 Stat. 212), has authorized and requested the President to issue a proclamation designating the third week in July of each year as "Captive Nations Week."

Now, therefore, I George Bush, President of the United States of America, do hereby proclaim the week beginning July 12, as Captive Nations Week. I call on all Americans to observe this week with appropriate ceremonies and activities in celebration of the growth of liberty and democracy around the world and in recognition of the need for continued vigilance and resolve in the defense of human rights.

In Witness Whereof, I have hereunto set my hand this fifteenth day of July, in the year of our Lord nineteen hundred and ninety-two, and of the Independence of the United States of America the two hundred and seventeenth.

NOTICE OF FILING

• Mr. SANFORD. Mr. President, notice is hereby given that the Senate Select Committee on Ethics has filed with the Secretary of the Senate as a public record, a resolution of the committee containing a summary of the committee's conclusions and the remedy in the matter of Senator Mark O. Hatfield.•

TRIBUTE TO OLYMPIAN, LYNN JENNINGS

• Mr. SMITH. Mr. President, I rise today to congratulate Lynn Jennings, a resident of Newmarket, New Hampshire, for her bronze medal performance at the 1992 Summer Olympics in Barcelona. This is a tremendous accomplishment for Lynn and everyone in the Granite State is very proud of her.

Lynn, who placed third in the 10,000-meter track and field event, trained long and hard for Barcelona. She is one of 122 athletes to represent the United States this summer alongside the world's most elite athletes. The people of New Hampshire have been watching her and all of the other American athletes with great enthusiasm.

Lynn is a graduate of Princeton University and is a freelance writer in addition to her world class competition in distance running. She has consistently ranked near the top in 10,000, 5,000, and 3,000 meter races since 1986. In 1990, Lynn had five first-place finishes including the World Indoor Record for 5,000 meters and the American Record in the Red Lobster 10K. Last year, she placed first in the World Cross Country Championships in Ant-

werp, Belgium. We admire her skill and dedication to her sport that has made her such a champion.

As you know, the Olympics represent the pinnacle of success in an athlete's career. New Hampshire is very proud of Lynn's bronze medal in the 10,000 meter race. She is a great ambassador from New Hampshire and we proudly look forward to her return to the Granite State.●

TRIBUTE TO AMY LIN GOSSELIN AND ADAN KUN

Mr. KERRY. Mr. President, today I would like to call attention to the achievements of two residents from my home State of Massachusetts, Amy Lin Gosselin and Adan Kun, both of whom recently were chosen by the public employees roundtable to receive public service scholarships.

Only 10 recipients were chosen nationwide to receive scholarships from among more than 400 applicants. The winners were chosen based on their academic excellence and their plans to pursue a career in public service.

Ms. Gosselin is currently an undergraduate majoring in sociology and french at Mount Holyoke College in South Hadley, MA. Mr. Kun is pursuing a graduate degree in public policy-policy analysis at the John F. Kennedy School of Government at Harvard University.

As we try to encourage the best and most promising students to choose careers in public service, I believe we can be encouraged by the winning essays submitted by Ms. Gosselin and Mr. Kun. I therefore ask that those two essays be inserted in the RECORD at this point.

The essays follow:

CAREER GOAL: WORKING FOR THE OFFICE OF SUBSTANCE ABUSE PREVENTION

(By Amy Lin Gosselin)

Last summer I was employed as an intern at the United Way of the Capital Area in Hartford, CT. My main project involved working with human service agencies to help them design campaign literature so that they could receive funds from the United Way. I had no idea how difficult this project would be, however, until I drove to a women's shelter in the North end of Hartford and felt the fear an 18-year-old white woman from a rural town feels when she is driving alone in a city where even the junior high school students carry guns. Business executives joke about Hartford, the nation's fourth poorest city, as being a doughnut: all of the "dough" is on the outside, and there is nothing but a big hole in the middle. I was able to see the needs of our urban community first-hand last summer, and I have no intention of turning my back on the problems that our society faces today.

Throughout high school and college, I have been interested in the issue of substance abuse. As a high school sophomore I began working with my town's Drug and Alcohol Council, designed primarily to promote substance abuse prevention education in the high school. I served on the United Way of the Capital Area's Youth Leadership Committee, and our task was to allocate funds to high school substance abuse prevention programs. As a junior in high school, I developed a Big Brother/Big Sister program called "Friends" where high school students volunteered to be big brothers and big sisters to incoming seventh-graders. From this program, I coordinated the formation of another service program in Canton High School called "Esteem," a substance abuse education performance troupe that performed skits, dances, and songs for grade school children in Connecticut. Presently, I am involved with S.A.U.C.E. (Substance Abuse/Use Campus Educators) at Mount Holyoke College and am also the Student Assistant at the Mount Holyoke Alcohol and Drug Awareness Project. My career goal is to work with the Office for Substance Abuse Prevention.

The reason I have chosen a public service career is that I know I simply will not be happy unless I am in a position where I will be able to help other people. I have exposed myself to the problems of our urban communities. I have dedicated time and energy to alleviating substance abuse problems among youth. My concentration in my first major, Sociology, is urban social problems (my second major is French). I know the history of social problems such as substance abuse in urban environments, and I am aware of the possible solutions that the government could begin to implement in our communities. Therefore, because of my own personal experience, my experience with substance abuse prevention programs, and my education background, I know that I very much want to continue with my intention to work for the government in the future in order to alleviate the urban substance abuse problems in the United States. I realize that I am young and probably a little idealistic, but I have hope for the future of the United States in terms of solving some of our more difficult social problems. I would like to be an employee at the Office for Substance Abuse Prevention and work toward improving our nation's urban areas by alleviating the substance abuse use problem among young people.

CAREER GOAL: POLICY ANALYST/CITY MANAGER

(By Aden W. Kun)

During the 1960s Cultural Revolution in China, my father and mother immigrated to California in their twenties. Their acculturation process in America was marked by many sacrifices: leaving family and friends, foregoing job opportunities at home, and combating racism in a foreign country they were now going to call home. As I mature and take on more responsibility, I realize the sacrifices my parents have made for me, so that I can live a better life by having a solid up-bringing and a quality education. Acknowledging the foundation my parents have set for me, I realize that there are many more people who are not as fortunate, people without the opportunities to pursue higher education, quality jobs, and adequate living facilities. And these are the people I want to reach and help through my efforts in the public sector.

Through 20 years have passed since my parents came to this great country, some of the problems they faced still persist. With a population growing more diverse we must create greater understanding, respect, and cultural awareness through education to help clarify the misinformation perpetuated by stereotypes. In Los Angeles, 54 percent of the population is composed of African-Americans, Latinos, Chicanos, and Asian-Americans. The changing face of America requires a continued commitment toward a broader understanding of our different cultures.

My background and work experience linked me up with these concerns and helped focus my efforts toward creating a greater awareness among other ethnic and racial groups through my coordination of Montebello's first Asian-Pacific voter registration drive which was funded by the Southwest Voter Registration Projects based in San Antonio. As acting field coordinator, I worked closely with community leaders and high school students in a joint effort to increase voter participation and education. The voter registration project was one of the first steps to reach out to diverse communities to help address common problems by forming common concerns through political participation.

Unaffected by the growing pressures to pursue a career to make money, I feel that the public sector provides me with the perfect avenue for a life of service to the community and a commitment to people. The public sector represents an opportunity to legitimately and effectively affect decisions to make positive change and responsiveness. These underlying convictions have been a theme and personal conviction throughout my involvement within the public sector. My experience in the public sector at the local, state, and federal level has given me the working knowledge of the channels for change. I do not look at politics simply as just a programmatic process of allocating scarce resources. I view the public sector and politics as an avenue for changing people's lives and forming a society which emphasizes self-determination and cooperation. The bottom line in the public sector is to positively affect and change people's lives.

As a 1991 Woodrow Wilson fellow I have started to build the skills required for a more critical analysis and understanding of policy issues through the development of empirical modeling and analytical skills. The Berkeley summer institute in public policy provided me the skills and confidence to analyze and sort out different policy choices in a coherent, conscientious, and diligent fashion to look at theoretical problems and case studies. The development of these policy skills at graduate school will help me complement my practical political experiences within the public sector.

My parents made many sacrifices to let me have a better life. As I progress through college and receive my degree, I start to carry the responsibility to help others and to make sacrifieces of my own to help those who are not as fortunate as me. My participation and matriculation at graduate school will help me take the first critical steps toward that goal. As a member of the Asian-American community, the Berkeley campus community, and an active participant in the public sector, I am willing to make the sacrifices to serve the segments of society whom our government has easily chosen to forget.●

TRIBUTE TO OLYMPIAN, CHRISTINA BROWN

● Mr. SMITH. Mr. President, today I rise to congratulate Christina Brown, a resident of Hancock, New Hampshire, for her outstanding performance at the 1992 Summer Olympics in Barcelona. This is a tremendous accomplishment for Christina and everyone in the Granite State is very proud of her.

Christina, whose women's eight boat placed sixth, trained long and hard for

Barcelona. She is one of 122 athletes to represent the United States this summer alongside the world's most elite athletes. The people of New Hampshire have been watching her and all of the other athletes with great enthusiasm.

Christina began rowing while attending George Washington University in Washington, DC in 1986. She has since competed in many national and international rowing events including the United States National Championships and the Royal Canadian Henley in England. Recently, Christina placed sixth in the women's pair without coxswain at the World Championships and third in the women's eight at the 1992 Lucerne International Regatta. We admire Christina's skill and dedication to her sport that has made her such a champion.

As you know, the Olympics represent the pinnacle of success in an athlete's career. New Hampshire is very proud of Christina's sixth place finish in rowing at Barcelona. She is a great ambassador from New Hampshire and we proudly look forward to her return to the Granite State.•

CONGRESSIONAL STAFF TRIP REPORT ON TIBETANS IN EXILE

• Mr. SIMON. Mr. President, earlier this year a member of my staff and eight other House and Senate staff members visited Tibetan refugee centers in India and Nepal. Their findings and recommendations for United States policy toward Tibetans in exile and occupied Tibet have been set forth in a trip report, which I commend to my colleagues.

The sufferings of the Tibetan people in their homeland and abroad are well known. The staff report details the U.S. Government response to these problems—mostly at congressional direction—but also points up the need to do more. In this area, as in other areas of foreign policy, we have not shown adequate leadership.

A few weeks ago, in the Senate Foreign Relations Committee, we held a hearing on United States and Chinese policies toward occupied Tibet. We heard testimony from the Administration that could have been written by Beijing. The reality is that Tibet is still suffering, that the Chinese are warring against Tibet's Buddhist faith and that the Bush administration, unlike the Eisenhower administration, refuses to support Tibet's right to self-determination. I hope that this policy will soon be changed.

Mr. President, I ask that the attached trip report be printed in the RECORD in full.

The report follows:

TRIP REPORT: TIBETAN REFUGEE SETTLEMENTS IN INDIA AND NEPAL, JANUARY 1–14, 1992

Submitted by Congressional Staff members: Alexandra Arriaga, Mark Gage, Judy Grayson, Bob Henshaw, Rachel Lostumbo, Keith Pitts, Steve Rickard, Deborah Spielberg and Jonathan Stein.

SECTION I: OPENING

Introduction

When the first congressional staff delegation visited the Tibetan refugee community in India and Nepal in late 1988, recent demonstrations in Lhasa, Tibet, and the Chinese government's brutal suppression of Tibetan protests for independence, had again focused widespread international concern on the Chinese policies in Tibet. The Chinese occupation of Tibet had not been a major international issue since the Tibetan Uprising and the subsequent flight of the Dalai Lama to India in 1959. Suddenly, a generation later, the crackdown in Lhasa presented an international crisis and was a grim harbinger of the Chinese government's "solution" to calls for democratic reforms that were to occur only months later in Beijing and other cities in the People's Republic of China. The US and international community's modest and cautiously measured response to Chinese occupation and oppression in Tibet have done little to improve the current situation in Tibet.

Today, Tibet's geopolitical importance has significantly increased. In recognition of his nonviolent efforts to regain Tibetan independence, the Dalai Lama received the 1989 Nobel Peace Prize. Also, many heads of state, including President George Bush, British Prime Minister John Major and former Czechoslovakian President Vaclav Havel, have held, for the first time ever, meetings with the Dalai Lama. Similarly, the United States Congress has taken a very strong stance on Tibet. What had earlier been an obscure issue in the US Congress is now a cause that enjoys unanimous and bipartisan support in the House of Representatives and the Senate. In recent years Congress has responded to the Tibetan crisis with the following:

Provisions in the 1991 State Department and Foreign Relations Authorization Act declaring Tibet an occupied country whose true representatives are the Dalai Lama and the Tibetan Government-in exile;

An April 1991 ceremony honoring the Dalai Lama in the Capitol Rotunda at which the joint, bipartisan leadership of the House and Senate spoke in support of the Tibetan independence;

The establishment of a Tibetan language program at the Voice of America and of a Fulbright scholarship program for Tibetan refugees to study at US colleges and universities;

1,000 immigrant visas for Tibetan refugees to settle in the United States;

Government assistance in the form of humanitarian aid ($500,000 in FY1991 and $1.5 million in FY1992) for Tibetan refugees currently settled or being settled in India and Nepal.

As a consequence, Tibet is no longer a marginal issue in the United States. The Tibetan issue has evolved into a serious concern in U.S.-China relations, and is likely to have the sustained and active support of the US Congress.

The Trip Report issued by the International Campaign for Tibet-led 1988 congressional staff delegation helped to establish many of the previously mentioned US sponsored programs to assist Tibetan refugees in India and Nepal. Key findings of the 1988 Trip Report is included in Appendix I. The 1992 delegation was able to monitor many of these programs. The current status of these programs, our interpretation of their efficacy and some new suggestions are discussed in this report. Continued monitoring of the situation for Tibetan refugees and existing US aided programs in Nepal and India is beneficial to the Tibetan community.

Unfortunately, many problems that were identified by the 1988 Delegation have yet to be addressed or rectified, and it is our hope that future US Government assistance (political, technical and monetary) will be forthcoming to relieve the suffering of Tibetans in Tibet and to help the Tibetans in exile save their ancient culture and redress blatant violations of international law.

Background

From January 1 through January 14, 1992, a congressional staff delegation traveled to India and Nepal to assess the situation of Tibetan refugees and to collect information concerning conditions inside of Tibet. The delegation was sponsored by the International Campaign for Tibet (ICT). ICT is a tax-exempt, non-profit membership organization and is a nonpartisan, public interest group dedicated to promoting human rights and democratic freedoms for the people of Tibet. The International Campaign for Tibet has played an instrumental role in educating the United States Congress and the Administration, and providing current, up-to-date, information to government officials, the press and non-government organizations.

The delegation consisted of eight congressional staff and one staff member of the ICT: Alexandra Arriaga of the Office of Congressman Tom Lantos (D-CA) and the Congressional Human Rights Caucus; Mark Gage of the Office of Congressman Gerald B. Solomon (R-NY) and the House Committee on Rules; Judy Grayson of the Office of Senator Harris Wofford (D-PA); Bob Henshaw of the Office of Congressman Charlie Rose (D-NC); Rachel Lostumbo of the Office of John Edward Porter (R-IL) and the Congressional Human Rights Caucus; Keith Pitts of the Office of Congressman Charlie Rose and the House Committee on Agriculture; Steve Rickard of the Office of Senator Daniel Patrick Moynihan (D-NY); Deborah Spielberg of the Office of Congressman John Lewis (D-GA); Jonathan Stein of the Office of Senator Paul Simon (D-IL); and Monica Garry of the International Campaign for Tibet.

The delegation first traveled to Dharamsala, Himachal Pradesh, India, to visit the seat of the Tibetan Government-in-exile and the Central Tibetan Administration (hereafter referred to as the CTA) In Dharamsala, the delegation met with several Tibetan government, religious and cultural leaders. The visit to Dharamsala also provided opportunities to mingle with members of the surrounding refugee community and to meet newly arrived refugees that had only days before escaped Tibet, been processed and provided transportation to India by the United Nations High Commission on Refugees (UNHCR) Office in Kathmandu, Nepal. The delegation then had a brief stop over in New Delhi, where we attended a reception with members of the Bureau of His Holiness the Dalai Lama and the CTA, a representative of the U.S. Embassy, members of the Indian press, human rights activists and other Tibetan experts living in India. From New Delhi, the delegation traveled south to Karnataka State to visit a large, agriculturally based Tibetan settlement in Kollegal and to meet with the Dalai Lama.

Two scheduled attempts to meet with officials of the Indian Government were thwarted by flight delays. Monica Garry, Bob Henshaw and Keith Pitts were able to visit

the Mundgod, Bylakuppe and Hunsur settlements in South India, where the largest Tibetan settlements are based. Bob, Keith and Rachel Lostumbo were also able to visit Kathmandu to meet with CTA, Nepalese Government, US Embassy and UNHCR Officials in Nepal. While in Nepal and South India, they conducted extensive interviews with settlement officials, community leaders and newly arrived refugees.

The Tibetan Government-in-Exile

The Tibetan Government-in-exile currently consists of the Central Tibetan Administration, an executive branch that is administered by the Kashag, or Tibetan Cabinet, and a democratically elected Assembly of People's Deputies. Prior to 1991, the Dalai Lama appointed the seven-member Kashag, as provided by the Tibetan Constitution promulgated by the exile community in 1962.

Currently, the Dalai Lama remains the temporal and spiritual leader of the Tibetan nation. However, in 1991, the Dalai Lama called for the promulgation of new constitutions, one for the government-in-exile and one for the government of a free Tibet. The charter governing the exile community has been ratified by the Assembly and the constitution for a free Tibet is currently being drafted in consultation with Tibetans in Tibet, Tibetans in exile and constitutional scholars in India and abroad. The Dalai Lama has proposed a charter which substantially limits the authority of the Dalai Lama. The Kashag also is no longer appointed, but is elected by the Assembly of People's Deputies. The Kashag is not required to be elected from the membership of the Assembly of People's Deputies, and the present Kashag has five members.

As part of the reforms, the Assembly of People's Deputies has taken a much larger role in the governance of the exile community, including the careful review of the government budget and oversight of the CTA. Most importantly, the Assembly elects the Cabinet, and, for the first time, the Kashag is fully accountable to the Assembly. As with members of the Kashag, members of the Assembly of People's Deputies whom we met expressed some confusion over the democratic process and demonstrated some reluctance to set policy and exercise power. For centuries, Tibetans have come to rely on the institution of the Dalai Lama. Although many Tibetans expressed eager support for democratic reforms, strong emotional ties to the spiritual and temporal leadership exist among all Tibetans. A general fear exists among many Tibetans that the Dalai Lama is laying the groundwork for the eventual and complete phase-out of the traditional, temporal role of the Dalai Lama.

Finally, the democratic reforms will result in the establishment of a functioning, independent judiciary within the exile community. Earlier this year, the first Chief Justice was nominated by the Dalai Lama and confirmed by the Assembly of People's Deputies. The Chief Justice is mandated, by the draft constitution and the acting government-in-exile charter, to establish an independent judiciary. As a judiciary-in-exile in India, its scope of power is currently limited.

The delegation also had the opportunity to meet with several grassroots political and cultural organizations, such as the Tibetan Youth Congress, the Tibetan Women's Association and the Tibetan Freedom Movement. These organizations are well-established in every Tibetan refugee community. They often support policies and positions different than those of the CTA and the Dalai Lama, and, for this reason, they play an important role in sustaining an active and true democracy-in-exile.

Programming supported by the National Endowment for Democracy could prove useful in assisting the refugee communities continuing transition to a democratic system with independent legislative, executive and judicial branches.

An Audience with the Dalai Lama

During our audience with the Dalai Lama in Kollegal, he stated his intent to gradually phase out the role of the Dalai Lama in government affairs and to replace the traditional role of the institution with a participatory democracy. His personal preference is to focus his attention on studies and religious practice. However, like all Tibetans, the Dalai Lama's most pressing concern is to improve the current situation of Tibetans in Tibet and to give control of the land back to the Tibetan people.

He continues to eschew violence as a means of protest or change, and believes it is necessary for the time being to retain much of his leadership over the temporal affairs of the Tibetan people in order to ensure a non-violent resolution of the current situation in Tibet. The overall tightening of Chinese control, the increasing repression in Tibet and the unwillingness of the Chinese Government to enter into meaningful dialogue on Tibet seem to justify his concern that the situation in Tibet could explode into violence at any time.

The Dalai Lama and the Tibetan community are very much heartened by the increasing worldwide support for the Tibetan cause. Sincere gratitude for the interest and action of the U.S. Congress on the Tibetan issue was expressed by the Dalai Lama and many members of the refugee communities.

The Dalai Lama expressed disappointment in the fact that the Chinese Government had not answered affirmatively to his requests to visit Tibet and to meet with Chinese Premier Li Peng during the Premier's high-profile visit to New Delhi in December 1991. On an optimistic note, the Dalai Lama stated that he believed democratic changes worldwide and brewing discontent within the People's Republic of China would result in positive changes in Tibet and China during the next five to ten years.

SECTION II: NEPAL

Tibetan Refugees in Nepal

Approximately 16,000 Tibetan refugees live in Nepal. A few established Tibetan refugee camps do exist in Nepal, but are generally not open to new Tibetan refugees. None are on the large scale found in India, nor do these communities receive any direct Nepalese government support as they do in India. Few are agriculturally self-sufficient, and most generate income through the production of Tibetan handicrafts. Many refugee camps are remote and inaccessible for extended periods of time, and living conditions in these camps are reported to be quite grim.

Several camps, particularly'' in the Pokhara region, are home (and originally staging areas and, then later, internment camps) to US-trained Tibetan guerrillas that were forcibly disarmed by the Nepalese government, with Chinese pressure, in the early to mid1970's. Most camps in Nepal were established in the early 1960's and continue to receive assistance from their founding private voluntary organizations and/or the Central Tibetan Administration. A great deal of financial support for the refugee community also comes from the private donations of a relatively wealthy Tibetan business community that manufactures and exports popular Tibetan folk crafts, such as carpets and thangka paintings, and manages hotels and restaurants which target tourists.

In the Kathmandu Valley, the refugee community has been highly successful in producing and marketing Tibetan carpets. These carpets are sold to tourists in Nepal, but are primarily exported to Europe. Last year, Tibetan carpets grossed $100 million in export sales and surpassed tourism as the largest source of hard currency for Nepal. Some 400,000 people in the Kathmandu area are believed to be employed by small cottage industries that manufacture these hand-woven carpets for export.

By the estimation of the United Nations High Commission on Refugees (UNHCR) office in Kathmandu, at least 2,000 Tibetan refugees were processed by the UNHCR office in Nepal in 1991. This number has steadily increased each year since 1987 and is expected to continue to do so. Of the new arrivals, almost all immediately transit Nepal to India with UNHCR assistance.

Relationship between Refugees and Nepalese Government

Until recently, political activities by Tibetans were strictly prohibited by Nepal's absolute monarch. On many occasions, leaders of the Tibetan community in Nepal were illegally imprisoned and detained even at the suspicion of demonstrations against China's actions in Tibet. Also, the forced repatriation of newly-arrived (post October 1987) Tibetan refugees to Chinese authorities was a well-documented breach of human rights by the Nepalese monarchy.

The relationship between the new, democratically-elected government of Nepal and the Tibetan refugee community is somewhat improved. The improvements seem less related to the new government's interest in the plight of the refugee community and more a result of the improved human rights situation in Nepal. Political protests by the Tibetans have been tolerated by the new government, but Nepalese government efforts to improve relations with the PRC could jeopardize any recent gains in freedom of expression and assembly for the refugee community. Similarly, a currently unstable domestic situation and the recent bloody, police crackdown on Nepalese protesters in Kathmandu raise concerns of the government's commitment to honor human rights.

A serious problem that continues to exist in Nepal is forced refoulement of Tibetan refugees attempting to flee Tibet and to transit Nepal to join the CTA and the refugee communities, schools and monasteries in India. Local Tibetan officials have estimated that well over 200 Tibetan refugees were forcibly repatriated by Nepalese border guards in 1991. Every newly-arrived Tibetan refugee in Kathmandu interviewed by members of the delegation had suffered some form of harassment from Nepalese border guards. Several had been turned back at the border at least once, and of those repatriated many have been imprisoned and/or tortured by Chinese authorities. Moreover, during the course of the staff delegation trip, one Tibetan refugee was shot to death at the Tibetan border by Nepalese border guards at Namche Bazaar. New refugees generally agreed that successful border crossings happened less than half the time. Repeated attempts, often with the assistance of a paid Nepalese guide, seemed to be the usual formula for success.

Officials at the United Nations High Commission on Refugees (UNHCR) and the US Embassy in Kathmandu monitor this situation and protest documented cases of harassment or refoulement. They have found the

Tibetan reports of repatriation to be credible and accurate. The UNHCR regularly visits known crossing points in an attempt to monitor the situation and to discourage acts of refoulement. The government of Nepal denies any policy of repatriating Tibetan refugees and have continually cast the blame on the greed and corruption of Nepalese border guards, who consistently attempt to coerce bribes or to steal money and belongings of Tibetan refugees. Several officials associated with the diplomatic corps and the human rights community in Kathmandu were quick to point out that the Nepalese government has taken no noteworthy action to warn, punish or train offending guards. Some within the diplomatic community suggested political and economic complicity against the Tibetan escapees between Chinese and Nepalese border police.

United Nations High Commission on Refugees Office in Nepal

The UNHCR Office in Kathmandu was slated for closure in 1991, but an infusion of US $100,000 from the US Government to support a Tibetan refugee protection and processing program was critical to keeping this Office open. US funds were primarily used to administer a refugee reception center in Kathmandu, with some assistance also coming from the CTA Office in Nepal, and to provide health care, food and transportation money for newly arrived Tibetan refugees. The 1992–1993 UNHCR budget estimate for continued administration of the Tibetan refugee program is US $130,000.

The Office has been diligent and effective in meeting its mandate to provide protection to Tibetan refugees. However, the recent and burgeoning influx of Bhutanese refugees into Nepal (9,000 refugees in 1991) and the fact that the Office has only one automobile have prevented the UNHCR from regularly conducting first-hand investigations and monitoring of the forced repatriation problems at the Tibet-Nepal border. A second automobile, preferably a four-wheel drive vehicle, would greatly enhance a badly-needed UNHCR presence at the Tibet-Nepal border.

The work of the Office received very high marks from newly arrived Tibetan refugees, the CTA and the US Embassy in Nepal. All interviewed new arrivals were previously unaware of the protections they are now eligible to receive through the UNHCR and were genuinely surprised and grateful of the attention and services provided by the Office in Kathmandu. Similarly, the UNHCR representatives in Kathmandu praised the cooperative spirit of the new arrivals and the CTA authorities in Nepal. Unlike other past refugee populations in Nepal, the Tibetans had no interest in collecting a regular stipend from the UNHCR Office. Usually, even Tibetans in the most dire conditions of health were eager to leave Nepal immediately and to travel to Dharamsala, India, "to see His Holiness the Dalai Lama."

After the issue of refugee refoulement and the need to better monitor Nepalese border guards, an immediate need is to build a large and permanent building to serve as a reception center and health clinic for newly arrived refugees. The current center is rented and inadequate to meet current and projected demands. The center has also changed sites several times because of Nepalese landlords' fears that the Nepal Government disapproves of the refugee facility and that the large numbers of refugees regularly overcrowd and badly damage housing property. The CTA has purchased a five-acre site outside of Kathmandu and has drawn up plans, in consultation with the UNHCR Office, to construct a permanent reception center. The cost is estimated to be US$264,898. The summary of the design proposal is included in Appendix II.

SECTION III: INDIA

Tibetan Refugees in India

More than 110,000 Tibetans have sought, and found, refuge on Indian soil since 1959. Refugees are settled in thirty-four communities that are scattered throughout India; by far, the majority of Tibetan refugees live in agriculture-based settlements in South India. The largest of these settlements can accommodate 10,000 Tibetans. According to a recent CTA census, 11,045 refugees remain unsettled, some of which have lived in exile without adequate shelter and services since 1959.

Recent demonstrations in Tibet and the ongoing Chinese suppression have resulted in an increasing flux of refugees from Tibet. In 1991, 3,395 new refugees successfully made their way to Dharamsala. Of this group, 1,841 refugees were resettled in eighteen settlements, 670 returned to Tibet (usually after leaving children under the guardianship of the CTA), and 884 refugees remain unsettled because adequate shelter cannot be found for them. The makeup of the new arrivals varies. Immediately following the 1987–88 demonstrations, most refugees escaped from the volatile Lhasa Valley of Central Tibet. In recent years, most refugees have been young Tibetan monks from Kham and Amdo in Eastern and Northeastern Tibet. Some staff were told that recent demographic shifts could be indicative of the tight security measures in Lhasa that prohibit Tibetan movement from the city and the stricter controls of religion and education by the Chinese authorities in Eastern Tibet that have forced many young Tibetans to flee in order to obtain a Tibetan education in exile.

Our observations in Nepal and India indicate that the number of Tibetans fleeing their homeland will continue to increase. Without additional outside assistance, many of these "new arrivals" will not be properly settled. Many existing refugee communities are now over stressed and overcrowded and are unable to provide housing and agricultural commodities at adequate levels for the established communities. After overpopulation, the immediate problems concerning existing settlements are, in general, adequate water resources and little crop diversification and rotation.

Without additional land and startup funds, proper settlement of existing unsettled refugees and new arrivals will not be possible. The ability of the Indian government and the CTA to solely carry the full financial burden of the additionally needed resettlement efforts is improbable. The estimated cost for establishing new refugee camps and expanding existing camps to accommodate unsettled refugees and the anticipated stream of new arrivals is US$6.5 million. Of this amount, the Indian Government has pledged US$1.3 million and the CTA has US$25,000 available for establishing new settlements; setting the current funding shortfall at US$5.1 million.

Relationship between Refugees and Indian Government

India has been quite generous to the Tibetan people. Since 1959, the Indian federal government and several individual state governments have generously contributed land, funding, teachers and/or other resources to the Tibetan refugees and the CTA.

Tibetan refugees enjoy many of the rights and privileges protected by the Indian constitution and its democratic government. Although Tibetans are, for all practical purposes, still accorded refugee status in India, subtle pressure has been (unsuccessfully) applied by the Indian government on Tibetans to give up hopes for an independent Tibet and to accept full Indian citizenship.

Traditionally, the Indian government has officially prohibited political activities by the Tibetan refugee community while effectively ignoring Chinese government protestations of frequently organized Tibetan demonstrations against China. However, recent efforts by India to patch a strained and historically acrimonious relationship with the People's Republic of China have resulted in a less tolerant approach by the Indian government. In fact, just prior to the staff delegation visit to India, the Indian police staged summary arrests and detainments of several hundred Tibetans (and in a few instances Tibetan-looking individuals such as Korean and Japanese tourists) to discourage demonstrations during the December 1991 visit by Chinese Premier Li Peng to New Delhi. Reportedly, many Tibetans who failed to be intimidated and chose to demonstrate anyway were subjected to beatings and police brutality. During our visit, the Indian newspapers were still carrying accounts and photographs of victims of the police brutality.

The Indian public and press, as well as the international press, were highly critical of this unexpected government-sanctioned breach of human rights, and sympathetic individuals within the Indian legislature and courts moved quickly to successfully secure the release of the illegally-detained demonstrators.

In recent bilateral talks with the Chinese government, the Indian government has made very strong statements officially recognizing Chinese claims of sovereignty over Tibet. Further efforts of rapprochement between India and China could possibly establish a previously nonexistent rift between the Indian government and the Tibetan refugee community. If an improvement of dialogue between the Indian government and the Tibetan community is not established and maintained, a situation could easily develop that would be disastrous to the welfare and morale of the Tibetan refugee community in India. With the growing popularity of the Tibetan cause in India and abroad, it is in China's interest, more than ever, to work to create divisions between India and the Tibetans.

New Arrival Refugee Reception Center and Training Center

Since the escalation of conflict between Tibetans and Chinese occupation forces in Tibet that began in 1986, 10,416 refugees have escaped Tibet and made their way to India. A total of 8,359 new arrivals have chosen to remain in India and 2,057 have returned to Tibet. As previously mentioned, 3,395 refugees came to the Dharamsala Center in 1991; 884 of this group remain unsettled. To accommodate the immediate needs of new arrivals, the CTA, in 1990, established the Office of the Reception Center in Dharamsala, India. The Dharamsala center is the primary hub for all refugees that have recently escaped from Tibet. Like the Kathmandu center jointly supported by the UNHCR and the CTA, the Dharamsala center provides temporary shelter, food, medical care and transportation funds to new arrivals. The intended visitation period at the reception center for new arrivals is fifteen days.

When possible, the CTA will place new arrivals in existing refugee settlements. However, existing settlements are overcrowded.

The resulting placement backlog has caused conditions at the current reception center to be cramped and unhealthy. Many refugees have suffered severe human rights abuse by Chinese authorities and have survived extreme physical and emotional trauma in their flight from Tibet. As a result, many new arrivals are demoralized and depressed. Conflicts between new arrivals and "old" refugees do occur. New arrivals oftentimes are poorly educated, and lack vocational skills. Refugees who are lay-persons and are above twenty-five years of age are particularly difficult to place and are often deficient in education and vocational skills. Efforts to properly assimilate new arrivals into the established refugee community are frustrated by the current lack of space and staff.

The CTA has a proposal to build a new and larger reception/training facility near Dharamsala and an aforementioned long-term plan to expand existing refugee communities and to establish one or more new refugee camps. The proposed reception/training center would be a three story building that would provide temporary housing and training facilities for 240 refugees. After an intensive educational program and vocational training, the new arrivals could be more easily, effectively and judiciously assimilated into the larger refugee community. Startup costs for the facility are projected to be US$328,828, and annual administrative costs are estimated to be US$178,988. The summary of the Office of the Reception Center proposal is included in Appendix II.

Health Care In Exile

The general health care infrastructure for Tibetans in exile is relatively good compared to other refugee communities but often shocking by Western standards. Health care is administered by the CTA. Most major settlements have a hospital or clinic, and both Western medicine and traditional Tibetan medicine are administered to the refugee community. Many patients rely on both medical traditions. Maintaining a reliable stock of basic Western medical supplies and pharmaceuticals and serving remote and unsettled refugee populations are major problems confronting health care delivery. Currently, there is also a shortage of health care workers. Technical and financial assistance from the US Government should be considered to help improve health care delivery, particularly in remote settlements and among unsettled refugees.

Tuberculosis remains the most urgent health care crisis in the refugee community. Cramped living conditions, the influx of new arrivals who are in generally poor health, and gaps in TB treatments caused by refugees leaving camps to sell sweaters during the winter months aggravate the problem. Repeat cases of TB and strains of drug-resistant TB are becoming more commonplace in the community. Polio, Measles, Diphtheria, Typhoid and Tetanus are also common diseases that afflict the refugee population. Previous US refugee assistance funds have helped to fund TB control and immunization programs administered by the CTA. Such funding should continue.

Technical and financial assistance should also be directed towards community health programs to improve sanitation, hygiene and water quality at the refugee settlements.

Education In Exile

Education was an early priority for the Tibetan government-in exile. Upon leaving Tibet in 1959, the Dalai Lama immediately initiated an aggressive program to provide educational opportunities to all refugee children. Today, eighty-two schools in India, Nepal and Bhutan serve the Tibetan community. The system is extensive and is an amalgamation with some schools administered by the CTA, others run by the Indian Government, and still others, a system for primarily orphaned Tibetan children known as the Tibetan Children's Village, administered by a private organization based in Dharamsala.

Special education programs have also been established. Many of these programs focus on vocational education and the arts, such as thangka painting, woodworking and carpet weaving and provide income for the refugees. Some adult education programs, particularly literacy programs, are being conducted.

The CTA has also made aggressive efforts to provide special education to new arrivals. Many of these refugees, because of discriminatory Chinese government policies, lack even the most basic educational skills and are unable to assimilate into ongoing school programs. In fact, many new arrivals are unable to read Tibetan and, in some instances, are unable to even speak Tibetan. A "new arrival school" has been established at Bir, India. The school provides a highly intensive "crash" course in Tibetan and English language skills and basic math and sciences. The increasing number of net arrivals has generated a need to establish more such schools.

In general, school curricula introduce students to the Tibetan, English and most common host country (Hindi or Nepalese) languages, mathematics, the arts, social studies and Tibetan history. Through the curricula the CTA makes an effort to preserve Tibetan language, culture, religion, arts and history. Currently, all nonlanguage courses are taught in English, and all textbooks are in English. To further cultural preservation, the CTA is initiating an ambitious project to print all textbooks in Tibetan and to use Tibetan as the primary teaching language in the school system.

Tibetan Buddhist monasteries, nunneries and colleges also play instrumental roles in the educational system-in-exile. Their adherence to traditional studies, arts and disciplines also serve to preserve Tibetan culture. These institutions operate autonomously and must solicit donations within the refugee community and abroad, and engage in cottage industries and farming in order to survive. Newly arrived monks and nuns receive a small monthly stipend for food from the CTA and private foundations. The monasteries are dotted throughout several refugee camps and also suffer from severe overcrowding.

The Tibetan Medical Institute in Dharamsala teaches doctors to administer traditional Tibetan medicine, which is a holistic discipline that combines herbal and mineral medicines with Buddhist doctrine. The Institute has several Tibetan, Indian and Western students. Dharamsala is also home to the Tibetan Library, which houses the most extensive collection of Tibetan literature in the world. Finally, the Tibetan Institute for the Performing Arts is a CTA-sponsored school that trains Tibetan performance artists in traditional Tibetan theater, dance, song and opera. The troupe regularly travels abroad to perform. These institutions permit Tibetan culture and religion to be a vibrant component of exile community.

Obstacles Faced by Tibetan Refugees

The issues mentioned in the preceding paragraphs: refoulement, overcrowding, water resources and crop diversification, are the most apparent and immediate concerns facing the refugee community. Political pressure is essential to ending the forced repatriation of Tibetan refugees. Certainly, continued and increased US refugee assistance is essential to assist the CTA and the Indian Government in their efforts to adequately matriculate and settle unsettled refugees and new arrivals. Problems concerning water resources (e.g. potable water and irrigation) and crop diversification and management require technical assistance. Settlements in South India have particularly acute problems with water resources and crop management.

In 1991, the Tibet Fund, a non-profit humanitarian organization based in New York City, with the help of the International Campaign for Tibet, received $500,000 from the US Government for Tibetan refugee assistance. This year, the Tibet Fund, working in conjunction with ICT, has submitted a US $1,277,500 request to the US Bureau for Refugee Programs to fund refugee programs in India and Nepal (see Appendix III). For FY92, the US Congress has appropriated $1.5 million for Tibetan refugee assistance. The full funding of this request will greatly assist the CTA in meeting many of its refugee resettlement goals. Needed technical assistance could be a coordinated effort between US agencies, such as AID, PVOs and the CTA. Such a cooperative effort should be explored and facilitated by the US Government.

During the 1988 congressional staff delegation visit, settlement directors and representatives of the CTA stressed the need for more economic diversification at the refugee settlements. At that time, settlements almost wholly depended on agricultural production and handicraft centers for jobs, economic support and capital development. A few small-scale cooperatives, such as handicraft centers, dairy cooperatives, feed mill operations and automotive repair shops, operate at most refugee settlements. These cooperatives received start-up funds directly from the CTA. No noticeable private enterprises, even of the smallest size, existed at the settlements.

Limited job opportunities, particularly for younger, well educated Tibetans, have resulted in an annual flux of Tibetans away from the settlements. Every year, thousands of Tibetans leave settlements for four to six months, usually between growing seasons, to engage in small-scale market sales throughout India. This is commonly referred to as the "sweater business" in the Tibetan community. During this period, some settlements take on the appearance of a ghost town. Many well-educated Tibetans who cannot secure limited positions available in the CTA have made the difficult decision to leave their communities and seek employment in major Indian cities. Education and health care (especially for tuberculosis) services are difficult to provide under such circumstances and are oftentimes neglected. CTA efforts to preserve Tibetan culture, which continues to be endangered and pressed into extinction by Chinese policies in Tibet, are frustrated by the temporary and, occasionally, permanent flux of refugees from the settlements.

During the 1988 delegation, the CTA was in the process of drawing up an aggressive five-year plan to assist in economic diversification and to improve job opportunities at the refugee settlements. Also, a private foundation based in the United States provided US $1 million to establish a revolving loan fund to assist the development of private enterprises by Tibetan refugees.

In 1992, the "sweater business" continues and very little development of micro-enterprises and small scale business has occurred. Some of the existing, CTA-sponsored cooperatives have grown, but, to date, few concrete advancements beyond existing government-supported enterprises have occurred. The revolving loan fund is severely hampered by Indian banking regulations that practically make loans from the fund unaffordable to the refugee community. On a positive note, the CTA has established a semiautonomous Planning Council that will more aggressively pursue economic diversification and development in the refugee community. Technical assistance for establishing small businesses would be very useful and should be facilitated 'and provided by the appropriate US Government agencies.

SECTION IV: REFUGEE REPORTS OF CONDITIONS IN TIBET

During the delegation tour, we had several opportunities to meet with members of the exiled community. Many meetings, particularly those with new arrivals, were planned, but many more were spontaneous and heartrending encounters with refugees. On occasion, we found some new arrivals to be initially reluctant to share their stories with us. The sense of fear and great suffering the new arrivals carried with them was overwhelming, but once refugees grew comfortable speaking to a non-Tibetan and started their accounts, interviewers were often deluged with vivid, emotional and horrifying tales of torture and a life dominated by fear. All refugees expressed gratification for the support demonstrated by the US Congress and, usually, pressed for greater political support for the Tibetan cause.

The Tibetans we met in exile regularly pointed out that they felt fortunate to have escaped from Tibet, and their gravest concern was directed towards the conditions under which Tibetans in Tibet continue to suffer. Many refugees told of incidents of torture and imprisonment. The lack of political and religious freedoms in Tibet, the transfer of millions of Chinese settlers into Tibet, the Chinese policies which discriminate against Tibetans, and environmental destruction, particularly deforestation and toxic waste dumping, in Tibet were issues often raised by the interviewed refugees. These were issues also discussed with the Dalai Lama during our meeting with him. Most Tibetans stated their belief that the Chinese Government was consciously pursuing a policy of cultural genocide against the Tibetans. While we could not confirm these reports, the tales we heard were consistent with accounts published by Asia Watch, Amnesty International and the International Campaign for Tibet. (See Appendix IV.)

SECTION V: REVIEW OF EXISTING U.S. PROGRAMS

Continued Refugee Assistance

Tibetan refugee assistance for Fiscal Year 1993 should be set at US$2 million to assist with basic humanitarian needs and refugee protection and resettlement. US Government agencies in India and Nepal should provide additional financial and technical assistance to assist with economic development, agricultural development, health care delivery, and sanitation and water resource improvements at the refugee camps.

Voice of America

New arrivals and members of refugee communities in India and Nepal expressed strong support and praise for the Tibetan language programming initiated by Voice of America (VOA). With the assistance of the ICT, this programming was begun in 1991, as mandated by Congress. All new arrivals stated that VOA was one of the few avenues for accurate and timely news information. All Tibetans expressed a desire for expanded broadcast time. Tibetans living in southern India complained of poor reception.

Newly arrived refugees stated that the program was immensely popular in Tibet even though fears of Chinese retribution against listeners did exist. But according to new arrivals, broadcasts occur at times that are inopportune for many Tibetans, especially the morning broadcast which is done at an hour when many people must report for work. Tibetans also come from three distinct regions that have different dialects. Tibetans from Kham and Amdo often complained that the exclusive use of the U-Tsang dialect of the more centrally-located Lhasa Valley and western Tibet is difficult to understand.

The delegation believes this program to be a huge success. We recommend that broadcast time be expanded, the signal be strengthened, Kham and Amdo dialects be incorporated into some portion of the programming and the time of broadcast into Tibet be reevaluated. As Congress presently has pending legislation for the establishment of a Radio Free China, we also suggest that a Radio Free Tibet be a component of this proposed project.

U.S. Information Agency Scholarships

The USIA Scholarship program was established in 1988 and was developed to give Tibetan refugees the opportunity to receive higher education in the United States. Scholarships are competitive, and the students are chosen under a rigorous selection process. A board consisting of members of the CTA, Indian Government education officials, university scholars and members of the business community (including Americans) makes the final selection. Most scholarship recipients study in the United States for two years.

The delegation had the opportunity to interview some students that have returned from their studies. All students believed the training had been a positive and useful experience. Early students complained of inadequate preparation and follow-up by the program administrators, -the Tibet Fund in New York, but all students attributed initial problems to inexperience and believed the preparation and follow-up had improved. Many initially experienced severe culture shock in the United States and believed a brief orientation program before visiting the United States would be useful. According to the Tibet Fund, such a program is now being implemented. Finally, the students suggested allowing greater flexibility in the length study in the United States because some refugee community needs could be addressed through brief technical training, while other necessary disciplines, like medical, business, public health degrees, could require more than two years of study.

An improved system to assist in school selection and placement was recommended. Initial school-student matches did not seem appropriate to many students. The students all 'felt they had inadequate exposure to computers prior to going to the United States and believed some preparatory computer training in India would be very valuable. To address many of these concerns and to assist in planning for future students, the USIA scholars have founded an alumni association that advises the program administrators and serves as a support group for new and old students.

The delegation believes that the selection board and the CTA should target and encourage students with talents and interests most useful to the refugee community to apply for the program. Technical needs of the refugee community mentioned earlier in the report should most certainly be targeted. The delegation also recommends that, in order to broaden the representation and experience in the program, women be more openly encouraged to apply for the scholarship program. We also believe that the Tibet Fund, with the help of ICT, should establish a board of university presidents, prominent educators and Members of Congress to coordinate, improve and ensure placement opportunities at colleges and universities in the United States. Overall funding should be expanded, and efforts should be made to identify schools that are willing to ensure annual Tibetan "slots" and matching funds for students to encourage continuity and stability in the program. The delegation also recommends that Tibetan refugees continue to participate in the USIA International Visitors program.

The Refugee Resettlement Project

In 1990, Congress allocated 1,000 immigrant visas for Tibetan refugees. This program was a prominent issue during the delegation's visit to India. The application period had just closed, and the selection lottery for some categories of refugees (e.g. new arrivals, the extremely poor, government servants) had been initiated. Most Tibetans were ardent supporters of this initiative and believed the program was highly beneficial to the selected individuals and the refugee population as a whole. However, many Tibetans stressed concerns about a "brain-drain" that could occur in the exile community if too many well-trained Tibetans won a slot. Other Tibetan refugees expressed concern that the US resettlement program worked in conflict with the CTA's goals to protect and preserve the Tibetan culture by maintaining a cohesive refugee community.

Regardless, we found the program was well-liked and appreciated. Many Tibetan critics of the program were also quick to point out that they too had applied for the lottery. The program should provide many refugees with positive opportunities not available in Tibet, India or Nepal and could ultimately provide leaders for a free and democratic Tibet. Certainly, the new refugee communities and those involved with the resettlement project must work to sustain and preserve the Tibetan culture and identity for these communities.

SECTION VI: CONCLUSION

Additional Recommendations for the U.S. Congress

Technical and Financial Assistance Programs

Congress should continue, and increase as necessary, financial assistance to provide basic human needs to unsettled refugees and to improve general health and sanitation conditions in existing refugee settlements. Technical and financial assistance to improve drinking water supplies, farm productivity, vocational training, literacy and micro-enterprise development at the refugee settlements should be initiated.

Programming supported by the National Endowment for Democracy could prove useful in assisting the refugee communities continuing transition to a democratic system with independent legislative, executive and judicial branches.

Refugee Situation in Nepal

After the issue of refugee refoulement and the need to better monitor Nepalese border

guards, an immediate need is to build a large and permanent building to serve as a reception center and health clinic for newly arrived refugees. The US Government should work to ensure the safety of Tibetan refugees transiting Nepal and should provide financial assistance to complete the construction of an adequate reception centers for new arrivals in Nepal and India.

U.S. Relations with the CTA

Our interactions with newly arrived refugees lead us to believe that conditions inside Tibet are acutely oppressive. Without a more aggressive and coordinated US and international human rights policy on Chinese policies in Tibet, there is little hope in improved conditions for the Tibetan people or for constructive dialogue between the CTA and the government of the People's Republic of China.

We believe that Tibet should be a central issue in any new US foreign policy initiatives towards the People's Republic of China (PRC), particularly efforts to deny Most Favored Nation trading status (MFN) to the PRC or to enforce sanctions against the current regime in Beijing. MFN should be conditioned on the halting of Chinese government initiatives to attract Chinese settlers to Tibet.

The U.S. Government should also establish more formal government ties with the CTA. Similarly the US Government should provide greater leadership in supporting the CTA and the Tibetan cause in international fora, such as supporting CTA observer status in the United Nations, sponsoring Tibet resolutions at the United Nations Commission on Human Rights, and consulting the CTA when PRC proposals affecting Tibet are before the Asian Development Bank, the World Bank and other multilateral organizations.

In general, we recommend that the US Government undertake a stronger advocacy role for Tibetan human rights, including the right to self-determination in its representations to the Chinese government and in international fora.●

FEDERAL PARENT LOCATOR SERVICE: KIDS IN NEED

● Mr. D'AMATO. Mr. President, I rise today as a proud cosponsor of S. 2887. This bill, Kids in Need, will amend title IV of the Social Security Act enabling the Secretary of Health and Human Services and the Attorney General of the United States to work together to locate missing children across the United States.

Many police departments simply do not have the resources needed to solve the numerous missing children cases which plague our society. Currently over 70 percent of child abductions in the United States involve parental kidnapping; this accounts for approximately 354,000 children abducted each year. Of America's 17,000 police departments, 70 percent have 10 or fewer officers, hardly enough to make a dent in what is truly an enormous and tragic problem.

This program, Kids in Need, will provide an effective new resource to help combat this most prevalent form of abduction. It will combine the efforts of the Department of Health and Human Services with the Department of Justice to help locate missing children. The program will allow the Office of Juvenile Justice and Delinquency Prevention, a division of the Department of Justice, to access information collected by the Internal Revenue Service and Department of Labor through the Federal Parent Locator Service. The Federal Parent Locator Service is currently used by the Family Support Administration to locate parents who are delinquent in child support payments by utilizing information provided by the Internal Revenue Service and the Department of Labor. This bill would enable the Office of Juvenile Justice to use the information to locate parents who have illegally taken a child from a custodial parent.

The program created by this bill will be a significant step toward alleviating the suffering of thousands of parents and children affected by the problem of parental abductions. Humanitarian grounds dictate that this matter be given a high priority.●

TRIBUTE TO OLYMPIAN SHELAGH DONOHOE

● Mr. KERRY. Mr. President, I rise to note the great pride we in Massachusetts feel with the accomplishment of Shelagh Donohoe of Lowell at the Barcelona Olympics just concluded.

Shelagh won a silver medal as a member of the American women's four without coxswain rowing team. The medal is the crowning achievement of a rowing career which began at her alma mater, the University of Massachusetts at Lowell, where she rowed competitively for 4 years and established a record as one of the university's greatest athletes.

Shelagh has been a member of victorious rowing teams both in the American rowing championships and at the Canadian national rowing championships, and continues as an international rowing competitor for our country.

Lowell takes great pride in Shelagh Donohoe, and I take great pride in calling the attention of the U.S. Senate to her silver medal performance.●

TRIBUTE TO OLYMPIAN, SALLY ZACK

● Mr. SMITH. Mr. President, I rise today to congratulate Sally Zack, a resident of North Conway, NH, for her outstanding performance at the 1992 summer Olympics in Barcelona. This is a tremendous accomplishment for Sally and everyone in the Granite State is very proud of her.

Sally, who placed 10th in the cycling road race, trained long and hard for Barcelona. She is 1 of 122 athletes to represent the United States this summer alongside the world's most elite athletes. The people of New Hampshire have been watching her and all of the other athletes with great enthusiasm.

Sally graduated from the University of Southern Illinois Carbondale in 1985 where she was a member of the cross country and track teams. She began cycling in order to rehabilitate from running injuries and has been competing as a cyclist ever since. Sally placed 16th in the road race in the 1988 Seoul Olympics and has placed in the top 5 in several national races since then. She placed third in the Olympic selection road race and had the third highest team time trial. We admire Sally's skill and dedication to her sport that has made her such a champion.

As you know, the Olympics represent the pinnacle of success in an athletics career. New Hampshire is very proud of Sally's 10th place finish in the cycling road race. She is a great ambassador from New Hampshire and we proudly look forward to her return to the Granite State.●

THE REALITIES OF BOSNIA-HERZEGOVINA

● Mr. DECONCINI. Mr. President, yesterday both Houses of the Congress passed separate resolutions calling for urgent and decisive action in response to the atrocities taking place in Bosnia-Herzegovina. While both passed with considerable support, hopefully sending a most necessary signal to those responsible for the conflict, opponents to the resolution used several arguments, on which I would like to comment now for the RECORD.

One argument maintained that it was not international intervention but a negotiated settlement that was needed, and that it was the Moslem, not the Serbian, side that refused to sit at the negotiating table. This point came to mind in reading the revealing comment of Bosnia-Serb leader Radovan Karadzic in today's Financial Times. He said:

> One day we should all sit down and make peace in the Balkans, even give up some territory * * *. We control 70 percent. But we only claim 64 percent as ours. All we need now is a negotiated settlement.

While representatives of the Bosnian Government were earlier sitting at the negotiating table with Mr. Karadzic under European Community auspices, his forces took full advantage of this smokescreen to cleanse whole regions of Bosnia-Herzegovina of non-Serbs, loading those they did not kill or incarcerate onto deportation trains. They made a mockery of international efforts to settle differences by negotiation. And now that Bosnia-Herzegovina, recognized internationally as an independent State, has been divided, the government of this struggling Republic is faulted for turning from the negotiating table, where the only basis for agreement would be acquiescence to the gains of an aggressor responsible for massive crimes against humanity.

Given the situation in Bosnia-Herzegovina today, what can the Bosnian Government possibly hope to achieve at the negotiating table without real, effective, international pressure on the other side? A settlement in line with Helsinki principles guiding relations between European States? A settlement that says might does not make right in post-cold-war Europe? Surely, we must not lose sight of international justice as our goal, not the most convenient settlement once the side who started the conflict is replete. Otherwise, we will not be dealing with a tragedy in Bosnia-Herzegovina alone; we will be watching aggressors in the former Soviet Union and elsewhere seeking the same gains.

It is unfortunate that negotiations could not have settled the differences between the peoples of Yugoslavia peacefully and fairly. That is what I, as Cochairman of the Helsinki Commission, called for during the last 2 years. It is also what Bosnian President Izetbegovic strove so hard to achieve before fighting erupted. But the situation now is vastly different from what it was then, as the new reports tell us. That is why the resolution we passed yesterday was so important.

Mr. President, a second argument given in opposition to the resolutions, with which I also disagree, is that internationally authorized intervention in Bosnia-Herzegovina is clearly a Vietnam or a Lebanon waiting to happen. Indeed, the dangers are there, but I would hope our knowledge of past mistakes will help to avoid our repeating them in this instance. The dangers are not, in and of themselves, arguments for inaction. There is a strong moral question here, as well as a national interest in stopping the war before it explodes to include other friends and allies in the Balkans and requires a much larger United States engagement. And we cannot put our principles and interests aside in the face of this aggression. As Margaret Thatcher recently commented, noting her many years of government experience:

I've known much advise come to me. If you ask people what you should do, they'll give you 101 reasons why you shouldn't do anything. If you say the situation is urgent, people are being murdered, they're being invaded, now how can we help deal with it, they'll give you a lot of options which are pretty effective. You really must not be as faint-hearted as to say what if, what if? It's a moral case, and we must help.

The decision to act is a political, not a military decision, and faced with that decision the military should be capable of making the necessary tactical judgments to prevent us from sinking in a quagmire. The challenges we face in Bosnia-Herzegovina today are, like it or not, likely to be typical of the security problems of the post-cold-war era. It is for this reason that we are keeping institutions like NATO, and strengthening institutions like the CSCE. Without the political will to do what is right, however, these institutions will become increasingly meaningless.

The passage of the resolution in the House and Senate yesterday demonstrated that the U.S. Congress does not want that to happen.●

PROPOSED NORTH AMERICAN FREE-TRADE AGREEMENT

● Ms. MIKULSKI. Mr. President, this morning President Bush announced that negotiations have been completed on the North American Free-Trade Agreement. I want to express my very serious concern that this agreement could mean more good American jobs leaving this country.

I do want to make it clear that I have not seen this proposed agreement—the President has not yet provided it to the Senate. However, based on the track record of the current administration, I am very worried that this agreement will help big corporate investors, but it will also take more manufacturing jobs away from hard-working Americans.

As I make my decision on whether to support any trade agreement, I look at what is in the best interest of American workers. Mexico has much lower wages than the United States, and its worker safety protections and environmental controls are much weaker than we have. America can't let this proposed free-trade agreement cost American jobs simply because we protect our workers and our environment. Any free-trade deal with Mexico has to have tough environmental enforcement and solid worker protection standards, and it has to help Americans who might be put out of work.

I represent the people of Maryland. And I have to make sure that this proposed agreement doesn't turn out to be simply a jobs program for Mexico at the expense of my State. I will be looking for how this agreement protects current American workers, and whether it will help America create the manufacturing and high technology jobs that will carry this country into the 21st century.

If the North American Free-Trade Agreement isn't good for workers in Baltimore, Hagerstown, and the rest of Maryland, then I will do everything in my power to oppose it.●

MANDATORY USE OF FTS2000

● Mr. LUGAR. Mr. President, I would like to commend a letter to your attention that was sent to me by the Communication Workers of America [CWA]. The letter voices the CWA's support for the renewal of the Federal policy on mandatory use of FTS2000. The letter is succinct and well written and happens to reflect my views on this matter.

I ask that the letter be printed in the RECORD.

The letter follows:

COMMUNICATIONS WORKERS OF AMERICA,
Washington, DC, July 9, 1992.

Hon. DENNIS DECONCINI,
Chairman, Subcommittee on Treasury, Postal Service and General Government, Committee on Appropriations, Washington, DC.

Hon. JOHN GLENN,
Chairman, Committee on Governmental Affairs, Washington, DC.

DEAR CHAIRMEN DECONCINI AND GLENN: As you know, the matter of the continuation of the federal policy of "mandatory use" of FTS2000 by government agencies is once again before Congress. The Communications Workers of America wants to voice its support for the renewal of this important federal statute and to strongly urge your active support in the United States Senate.

FTS2000 is a program developed, procured and awarded in an environment of intense, full and open competition. FTS2000 may have had more active Congressional oversight, even well before the competition was conducted, then any other government programs. It is a multi-vendor program, by structure and design. It not only includes two major long distance carriers, but literally hundreds of small, minority and disadvantaged businesses. What may not have been properly stressed, however, is that FTS2000's Network A is staffed by members of the Communications Workers of America.

The policy of "mandatory use" is a basic principle of the FTS2000 program and underlies both the original competitive procurement and the contracts. According to the Congressional Record of July 1, 1992:

"* * * the 'mandatory use' provision was conceived in the midst of this (FTS2000) competition when one of the competing contractor teams complained that the costs of preparing a bid and the risks inherent in the FTS2000 contracts (in which prices could only go down, not up) were too high, without some assurance . . . Accordingly, for that and other reasons, Congress enacted the 'mandatory use' statute. This statute represented Congress' commitment to the competing vendors that Federal agencies would make full use of the contracts through the life of the program. The 'best and final offers' of the vendors were formed on the basis of this commitment.

"Ironically, the vendor which had proposed the 'mandatory use' provision has become its chief opponent in the years since its enactment. The central argument raised by those opposing 'mandatory use' has been that 'choice in the competitive marketplace' should be the Government's strategy for meeting its telecommunications requirements . . . But the FTS2000 contracts were awarded after just such a competition. Without a doubt, there will be a spirited competition a few years down the road for the contracts that replace FTS2000 . . . Additionally, we note approximately 83% ($3.1 billion) of the Government's telecommunications requirements is not covered by FTS2000 and is subject to competition from all responsible vendors."

In sum, we believe that the fair outcome of the full and open competition which created FTS2000 should be upheld, lest the federal procurement process itself be damaged by the insistent demands of losing competitors who are disappointed in the outcome. There are fundamental public policy issues at stake when an accountable public process conducted under law, is replaced with an auction to satisfy the disgruntled.

The suggestion that the Government does not need, or should not get, sophisticated communications capabilities to meet its specialized needs is remarkable in itself. Were the Government to simply rely on the commercial public networks, or a balkanized patchwork of disparate contract services, there would be a legitimate question about due diligence in meeting the Government's unique societal role. In times of communications crisis—whether a matter of national security, emergency preparedness or simple gridlock created by a public run on Springsteen tickets—the Government must not find itself unable to communicate with itself or our citizens. That is why the dedicated FTS system was originally created in the 1960s and why federal networks such as those provided under FTS2000 are legitimately in the public interest today. Government could not readily explain to the American people why it did away with ubiquitous federal communications systems either in the interest of getting what may purport to be the cheapest conceivable services or to satisfy losing bidders.

And yet, the economics of FTS2000 are in extraordinary success story. In just three years of operation, the Government (and taxpayer) has saved more than a half-billion dollars through FTS2000 (more than five times the original Government estimates). Indeed, these savings are attributable to the discounting across agencies and across FTS2000 services which are made possible by "mandatory use FTS2000." The policy has been described as "the economic engine" that drives and which, in combination with the periodic price recompetitions, will continue harvesting savings for the taxpayer. The first of those price recompetitions is already under way.

In sum, we believe the FTS2000 program and the "mandatory use" statute deserve your continued full support, as they have ours. We are keenly aware that your support over the last several years in the United States Senate has made this competitive success story possible. It has provided stable opportunity for American workers. Accordingly, we urge that this statute be renewed for FY93 and extended, as well, to provide assurance and stability for the remaining years of the program.

We hope you can count on your continued support.

Sincerely,

MORTON BAHR,
President.●

VOCATIONAL REHABILITATION ACT

Mr. ADAMS: Mr. President, I am pleased that the reauthorization of the Vocational Rehabilitation Act, S.3065 passed the Senate last night by unanimous consent. This bill is truly a consensus effort, reflecting months of negotiations with representatives of the disability community. I commend Senator HARKIN and my fellow members of his subcommittee for their dedicated work on this important legislation.

Forty-three million Americans have one or more physical or mental disabilities. In my home State of Washington, there are over 450,000 individuals over the age of 16 with a mental or physical disability.

Individuals with disabilities want to and have proven to be productive contributors to society. This bill will help them reach that goal through supported employment, independent living, and other programs.

In large part, the Americans With Disabilities Act has changed stereotypes about the capabilities of persons with disabilities. I was a proud cosponsor of the act. On July 26, we marked the second anniversary of the signing of that landmark legislation. While this law prohibits discrimination against disabled individuals in employment, it does not outline practical training and other services for disabled workers. This is where the Vocational Rehabilitation Act plays such a vital role.

The Vocational Rehabilitation Act bridges that crucial link between civil rights and actual employment, especially for severely disabled individuals. The Act also helps to facilitate independent living which allows all Americans to fulfill their potential through independence, productivity and community involvement.

The programs are also cost-effective. In Washington State, over 23,000 individuals in the past year participated in vocational rehabilitation programs and services. Employment due to vocational training increased significantly, resulting in a decrease in combined State and Federal income maintenance payments by $7 million.

As chairman of the Subcommittee on Aging, I want to stress the need to link programs and policies serving older persons with severe disabilities with younger disabled persons. In the past, there has been very little interplay between the aging and disability communities on the Vocational Rehabilitation Act. Frankly, I believe older disabled individuals can benefit from the experience and knowledge of the disability community, including independent living centers.

I am very pleased that the chairman has included in title II language that clearly states that research, demonstration projects, training, and related activities under this act will be extended to individuals with disabilities of all ages. This promotes rehabilitation research within a life-long perspective. These simple words are an important addition to the language because they allow rehabilitation research and activities to address disability issues affecting individuals with chronic disabilities who are no longer of working age.

This bill ensures the recognition of the needs of the rapidly growing numbers of Americans with disabilities who are now becoming older Americans. I strongly support the passage of this vital legislation.●

S. 12 AND BLACK OUT PROVISIONS

● Mr. FOWLER. Mr. President, I rise today to comment briefly on an issue directly related to America's greatest pastime—baseball. I know the season is far from over, but I cannot help pointing out that the Atlanta Braves are currently in first place in the West and seem on track to repeat least year's heroics.

Mr. President, my real concern is one shared by baseball fans all over the Nation. A proposal has been made by Major League Baseball that language be included in S. 12, the Cable Television Consumer Protection Act of 1991, which would have the effect of blacking out major league baseball games on superstations. This proposal has the potential of preventing Atlanta Braves fans, and baseball fans in general, from watching their teams in action.

S. 12 has been described by its sponsors and proponents as a proconsumer measure, a measure designed to offer relief to cable television subscribers from problems such as unfair rates and poor customer service.

After much consideration, deliberation, and debate, both the House and Senate have succeeded in passing cable reregulation legislation, and now we are about to go to conference. Neither bill addresses the issues of blackouts of major league baseball games on superstations in any fashion. Yet, it is being proposed that the conferees on S. 12 include language to this effect in the conference report.

Georgians are passionate Braves fans, a sentiment shared by many Americans across the country. In the last few days, my office has been inundated with calls and mail from Georgians asking that their access to Braves games not be limited by Congress. Mr. President, I want to assure Braves fans, and the fans of any other baseball team, that I do not favor the inclusion of these provisions in S. 12 and that I will strongly oppose their incorporation into the bill. I urge my colleagues in the Senate to do likewise.●

TRIBUTE TO SAVAGE & SON, INC.

● Mr. BRYAN. Mr. President, I rise today to pay tribute to a family-owned operation celebrating a century of doing business in my State of Nevada. Northern Nevada's oldest established contractor, Savage & Son, Inc., opened in 1893. Considering that Nevada has only been a State since 1864, this is quite a remarkable achievement. Even more impressive is the fact that a family member has been at the shop every day since its opening.

The Savage family has played a vital role in the development of the State of Nevada. Great-great grandfather of the current president, Leonard J. Savage, discovered the famous Savage mine in Virginia City in 1859. His grandfather, Frank Charles Savage, was a founding partner in a Virginia City company which sold goods ranging from indus-

trial plumbing supplies for draining mine shafts to stoves and cooking utensils to the miners and families in and around the town. In 1893, Frank Charles Savage left Virginia City to open a plumbing and heating business in Reno.

Since its beginnings in 1893, Savage & Son, Inc., has gone from being a one-man operation to a full-service contractor with 60 employees and a fleet of 40 service vehicles. The President of the company attributes that success to very dedicated, skilled employees.

It is my pleasure to congratulate Savage & Son, Inc., on 100 years in business and wish them the best of luck for another successful 100 years.●

LOAN GUARANTEES FOR ISRAEL

● Mr. DURENBERGER. Mr. President, I rise to comment on President Bush's recent announcement that he will now support Israel's request for loan guarantees to assist with that country's immigrant absorption efforts. First, I am pleased that the United States and Israel have finally been able to come to terms on this matter. I have supported providing the loan guarantees in the past, with appropriate conditions, and I look forward to working together with my colleagues to ensure their approval in the near future.

My recent trip to Israel expanded my understanding of the myriad issues involved in providing these guarantees and, in particular, the implications for Israel's economy.

The most important issue for me, Mr. President, is how Israel intends to use these funds, which they will secure through our guarantees. It is my understanding that there are several main purposes for these funds. High on the list is providing immediate assistance for the new and recent immigrant arrivals. Obviously, they need a fair amount of help with basic human services, such as language training, housing, food, et cetera.

Further, these funds will be used to expand employment opportunities in Israel, not through Government make-work projects, but through market-oriented investments. Based on my recent experiences in Israel, it would appear that employment is the most pressing problem facing Israel's new immigrants. There is a vast pool of new talent, which currently is underutilized. Israel will also use funds for vocational training.

Israel will also use a considerable amount of these and other resources on infrastructure investment. Current projects include investments in roads, railways, civil aviation and shipping, electricity, telecommunications, waterworks and sewage, and schools and hospitals.

It is my understanding that a portion of the resources secured through these guarantees will also be used to reduce Israel's debt service burden, which has been a considerable drag on the economy.

Mr. President, it is also important to recognize that Israel will not be borrowing money directly from the United States Government. Israel will secure the loans from private United States banks, and the United States acts as the guarantor for the loans. Because the United States Government is standing behind the loans, Israel is able to borrow at considerably more favorable interest rates. Because these are privately secured loans, however, the U.S. Government does not establish the interest rates.

Although the accounting rules for fiscal year 1992 have changed to require that a certain percentage of the loan guarantee be set aside in case of default, Israel has offered to cover these so-called scoring costs, which are similar to points on a home mortgage.

Mr. President, it is also very important to me to get a solid understanding of Israel's new directions economically and fiscally. The new Rabin government has stated that it will reorient the country's priorities away from settlements in the territories and more toward needs inside pre-1967 Israel. This is a welcome change, and I look forward to learning more about Israel's plans and intentions.

Mr. President, when we return from the recess, I will have more to say about these and related issues. I wish now only to offer a few brief comments on a matter that will come before the Senate later in the fall.

Mr. President, I yield the floor.●

STATEMENT OF YUGOSLAVIA

● Mr. DURENBERGER. Mr. President, yesterday, the Senate voted to urge the President to seek U.N. authorization to use force to ensure the delivery of humanitarian supplies to Bosnia and Hercegovina. I voted against the resolution, and I want to share with my colleagues and constituents my thoughts on the matters.

Each one of us is outraged and sickened by the horrors of the war in the former Yugoslavia. The brutality and atrocity of it all wrenches the soul. The human suffering is difficult to comprehend.

It is sobering to see the kind of cruelty mankind is capable of in the name of ethnic identity. I have read the letters from Minnesotans and it is clear that the destruction of what is the ethnic homeland for many of them is partial death for each one.

And in characteristically Minnesota fashion, citizens of our State are reaching out to offer whatever they can to ease the human suffering. My office in Minneapolis has been flooded with calls about adopting orphaned children or providing foster care for them. Minnesotans are asking where they can send food and medicine, clothes and blankets.

And many Minnesotans, like some of our colleagues in the Senate, are urging our Government to do something to end the fighting, to relieve the suffering.

The resolution before the Senate yesterday invites the United Nations to take up the challenge. But the question is not only, what do we do, but are we prepared as a nation to do it?

Policymakers and the American public have to ask the same questions we asked about the gulf conflict. What's the objective? What are the means? How much will it cost, in treasure and in blood? Is it worth that cost to the American people?

In the gulf, we had good answers to all these questions. In Yugoslavia, at this point at least, we do not have good answers to any of them.

National will requires a national commitment. That will and commitment is no less necessary now than it was during the gulf war.

Mr. President, a young man in Minnesota has done a fine job expressing the essence of why I voted against this resolution. D.J. Tice, a columnist at the St. Paul Pioneer Press, on Sunday morning cited what he called an old rule about the use of military force. I don't know how old it is or if it is a rule, but it makes a lot of sense to me in the light of this country's recent military ventures.

"The rule holds," writes Mr. Tice "that before a nation resorts to military action, it must possess both of the following: (1) a clear military objective, and (2) the will to apply all the force necessary to achieve the objective."

As Mr. Tice points out, our success in Desert Storm resulted from adherence to this rule. Our failures in Lebanon and Vietnam resulted from ignoring it.

In order for a policy calling for the use of military force to succeed, we much be united in our goals and our understanding of what is necessary to achieve those goals. We must understand the potential risks and costs. And most importantly, we must have the national political will to see the policy through. Only then will we have a successful military policy.

The contrast with out experience in the gulf is again worth noting. With that crises, all of the above factors were present. At this point with Yugoslavia, we don't know whether any of them are.

What are our goals in Bosnia going to be? It would be foolish for us to set as a goal the peaceful resolution of the deep-seated historic differences among Serbs, Croats, and Moslems. That is well beyond our military power to do in Yugoslavia, just like it is in Azerbaijan, Somalia, Sri Lanka, and elsewhere.

What are the means to the goal? This is not the open desert of Iraq which

lends itself to a victory by superior air power and tanks. This is not a war where soldiers are wearing uniforms and carrying flags. This is a war in urban areas and densely forested mountainous terrain. the combatants all look the same and all claim the region as home. It lends itself to a slogging war with ground troops wearing each other down with a heavy loss of life.

Do the American people understand the sacrifice that they would be asked to make? Do they think the objective, given the long history of ethnic strife in this region, is worth the cost?

A fundamental question I have to ask myself is this: Could I call the mother of a dead Minnesota service person and tell her that her child died in the defense of his country's basic interests?

Mr. President, because we have not answered some very tough but necessary questions, I voted against this resolution.

The other day, I listened to my colleague from Nebraska, Senator BOB KERREY, suggest the same. The gist of his argument was good. People around the world are looking to the United Nations and especially the United states for guidance and leadership.

The issue before many of them is the same as the issue before the Serbs. How does a nation deal with an ethnic minority? The United States has learned how to build a nation from ethnic diversity and we are constantly challenged to build a better nation from greater diversity.

So when we speak we are listened to. And, more particularly, when we threaten to act, we must be willing to act. And that threat must force others to reconsider their own actions.

The point my colleague from Nebraska was trying to make was that only when we speak with one voice can we be effective. "Undivided" is what Senator KERREY called it. He said that this resolution itself does not necessarily divide us, but the political process in which it lives and the way in which it is being interpreted here and abroad does. This resolution is not the means to unify our response, and it should therefore be defeated.

Having said this, however, let me now say we should not be having this exercise if the President had come to the Senate with a plan for our role in the United Nations, our role in Yugoslavia. In contrast to our experiences prior to and during the gulf war, we have had precious little consultation with the executive branch.

In my view, Mr. President, we cannot deal with the issue of military means nor put the lives of our sons and daughters on the line unless we've dealt thoroughly with the military objective. And we cannot deal with the objective absent a clear policy goal.

The executive branch has been most confusing regarding Yugoslavia, almost from the beginning opposing any form of ethnic or national independence. It has been slow to develop a sense of direction on how we will deal with nationalism, militant ethnicity, ethnic cleansing, or nation building in the Balkans, in the Black Sea area, or in the former Soviet Union.

If I've learned anything over 14 years in the Senate and 8 years on the Intelligence Committee it is that the only way this shared responsibility for policy making will work is if the President comes to the Congress seeking the endorsement of the national will with regard to a defined policy goal that is accompanied by an acceptable means to achieve it.

So, Mr. President, when we need an operational document before us—policy goals, objectives, and means—we have instead a political document. What we are doing is relieving the President of his obligation to define policy and to articulate its objectives.

I believe the President is pleased that the Senate passed this resolution and that he's glad to get this particular part of the process behind him. Historically, the Executive prefers a blank check. U.S. Navy Adm. Ernie King is famed for having said in the Second World War: "Don't tell them anything until it's all over and then tell them whether we won or lost." That says it all.

None of this is an argument against doing something about Bosnia. To use Mr. Tice's words again, it is an argument "against asking American troops to risk their lives to scratch a moral itch. We must give them a purposeful mission, and the means to complete it, or hold our fire."

We need to do something. We need, in conjunction with the United Nations, to find a way to provide humanitarian relief. We heed to find a way to get the Red Cross into the camps. We need to do everything we can to bring the bloodshed to an end.

But I for one want the best military and political minds to focus on the goals, the means, and the national will that make and effective policy. Until we do that, we will not be successful in Bosnia.

Mr. President. I yield the floor.●

THE NEED FOR ACTION ON HEALTH CARE REFORM

● Mr. MCCAIN. Mr. President, I rise today to again express my deep concern about the fact that the Senate still has not acted to solve the pressing problems which plague our Nation's health care delivery system, but has left millions of Americans without access to affordable health insurance. The time has come for us to end the politically inspired delay, and allow the Senate to work its will on this issue of critical importance to our Nation.

It's time we stop promising the public action on this critical issue, only to resort to rhetoric. To be sure, America offers the highest quality health care in the world. But costs continue to rise to astronomical rates, and millions of Americans are disenfranchised from the system.

Last week I came to the Senate floor to respond to accusations that Republicans do not have an interest in health care, or in taking meaningful action to remedy the shortcomings of our health care delivery system. Mr. President, nothing could be further from the truth.

The fact of the matter is, the distinguished Senator from Rhode Island [Mr. CHAFEE] has led a group of Republican Senators in meetings on health care for more than 2 years, in an effort to identify the chief barriers to health insurance coverage for the uninsured, and the major forces that are driving the skyrocketing rates of increase in health care costs. These meetings, as a supplement to my own personal efforts to learn about health care and how to solve the crisis that we face, have been extremely provocative and enlightening. If I have not sufficiently thanked and commended my colleague from Rhode Island for his leadership and hard work, then I do so now.

But, Mr. President, despite our efforts to honestly and thoroughly approach the issue of health care reform, action in the Senate has been delayed. I don't understand this, and I find it unacceptable.

Mr. President, we have a plan that we believe merits the attention of this body. I do not pretend that the legislation I have introduced and cosponsored will solve every problem of our health care crisis. But I do know this. We can take action—today—to take a major step forward in controlling health care costs and providing access to health care coverage for millions of Americans who work for small businesses or are the dependents of those who work for small businesses.

As I have mentioned before, the Senate passed legislation that the chairman of the Finance Committee introduced, and of which I am a cosponsor, that would go a long way in addressing the problems we face. I cannot understand why we cannot bring that bill up again, pass it again, perhaps amend it to make it even more effective, and present it to the President. Why delay action on this vital issue?

Mr. President, all I ask is that the Senate take this issue seriously and allow the necessary debate to occur. Let the Senate work its will. Let the Congress take action on a matter that is on the minds of all Americans. Bring health care reform legislation to the floor, and let us do what we can now to help so many Americans who so desperately need it.●

TRIBUTE TO OLYMPIAN, JENNY THOMPSON

• Mr. SMITH. Mr. President, today I rise to congratulate Jenny Thompson, a resident of Dover, NH, for her outstanding performance at the 1992 summer Olympics in Barcelona. This is a tremendous accomplishment for Jenny and everyone in the Granite State is very proud of her.

Jenny, a sophomore at Stanford University, has trained long and hard for Barcelona. The people of New Hampshire have been watching her and all of the other American athletes with great enthusiasm. Jenny is one of 40 swimmers to compete on the U.S. Olympic swim team. We admire here dedication and skill to her sport that has made her such a champion.

Jenny arrived as a world record holder in the 100 meter freestyle event as well as having high world rankings in the 50- and 200-meter freestyle event. She earned a gold medal in the 400-meter freestyle relay, but, was edged out for the gold in the 100-meter freestyle by Shuang Yong, the 1988 silver medalist from China. Jenny held tight to the second spot in a fiercely competitive final, earning a silver medal. She also placed fifth in the 50-meter freestyle event.

As you know, the Olympics represents the pinnacle of success in an athlete's career. New Hampshire is very proud of Jenny Thompson and her gold medal performance in Barcelona. She is a great ambassador from New Hampshire and we proudly look forward to her return to the Granite State.•

TRIBUTE TO BERNICE MURRAY

• Mr. JEFFORDS. Mr. President, it is with sadness that I inform the Senate that on June 17, one of my dear friends, and one of this country's fine public servants, Bernice Murray, died in Montpelier, VT. She died after a brave struggle against cancer. She was at work in her home up until the day before she died, working at her job as director of the Farmer's Home Administration for Vermont, New Hampshire, and the Virgin Islands.

Let me first state some facts about Bernice Murray. In so doing I would first note that she was 53 when she died and because she ran at a higher speed and required less sleep than anyone I've known, she packed about 100 years of living into those too-few-years.

Bernice Murray came to Vermont in 1968, 10 years after her marriage to Paul Murray. They both became Vermonters by choice. She got involved in politics about the day she arrived in my State and worked on my campaigns for Vermont Governor—unsuccesful—and Congress—successful. Then she went to work for me and managed my congressional office in Montpelier until her appointment as State director of Farmer's Home. And let me note that was an easy appointment to arrange for she had earned, years ago, the respect and friendship of President Bush.

She served on many committees and organizations and was a member of the Federal Executive Association, of which she was a past president, and was a moving force behind the Vermont Disability Awareness Day and Jobs for Vermont Graduates programs. She also participated in the Vermont Business and Industry Exposition, the Governor's Prevention Conference, the Farm Program Task Force, Building Our American Communities, was chair of the Congregate Housing Supportive Programs Task Force, and was a member and very staunch supporter of the Washington, VT, County Republican Committee. So we have some of the facts, and to look at those facts is to get a strong hint that Bernice cared deeply about people.

I met her one hot summer day the first year that 18-year-olds could vote. She was out on a Montpelier sidewalk registering young people. We immediately became friends and before very long she was my most important political adviser.

Then she went to work for me and I am still in amazement. Bernice functioned on about 4 hours sleep a night. She never took a lunch hour. She had a machinegun typing style. She learned Federal and State regulations backwards and forwards. And she used all of that—to help people.

After she joined the Farmers Home Administration, Hurricane Hugo hit the Virgin Islands and a ham radio operator called her from Massachusetts with a message from her staff: Help. First she went shopping in Montpelier for things her staff people would need like canned food, batteries, and soap. Then she reached into her vast arsenal of phone numbers to get a high-ranking general at the Pentagon to commandeer a plane. "How did you get my number?" was his first response.

It happens in the Farmers Home Administration that twice a year in certain program areas there comes a pooling of funds, when States who have spent all their moneys in certain areas can apply for unspent funds. Last year the time set for application was midnight on a certain date. Of course, most offices around the country filed their requests at 8 a.m. the next morning. Not so Bernice. At midnight when the deadline came she was on her fax machine filing Vermont's requests. After all, peoples' homes were at stake.

The week before she died, I was consulting with her on plans for streamlining Department of Agriculture operations in the State of Vermont. The day before she died, a member of her office staff was on the phone with her at some length discussing important FHA business. She never stopped.

Two days before she died, she was on the phone with the son of Alexandr Solzhenitsyn. It is a little-known fact that on Solzhenitsyn's arrival in Vermont, Bernice and I wrote him to offer help, for she quickly realized he'd need assistance in coping with a strange land's new ways of doing things. The Solzhenitsyns and Bernice struck up a close friendship and, in many ways, she became their link to America. And just before Bernice died she did them one last kindness by arranging for Alexandr Solzhenitsyn to speak directly by phone with Boris Yeltsin while he visited here in Washington.

She was an untiring worker at any job, despite the fact she never drove a car, and she was an untiring and deeply-loving wife and mother. She was an avid collector, loved to find a bargain and was an inveterate giver of gifts, especially to the children of her friends and her workmates. And with Bernice, there was no line of distinction drawn there. While she asked much of people, she never asked more of others than she gave of herself.

And always, always, there was time for her beloved husband Paul and her children Christine, Paul, Timothy, and Thomas. There was time for their hockey, football, and homework and for another of her immense home-cooked Italian meals. Somehow she found time for everyone.

Mid-June is a hard time to leave Vermont. In fact, like words from that song from Camelot, "If ever I would leave you, it would not be in summer," anytime is a hard time to leave Vermont. But with high summer just coming on and well deserved warmth and greenery on the land after the long winter and reluctant spring, it simply is just too soon to leave. And it was too soon for Bernice to leave us.

Hundreds of her friends gathered at the Catholic church in Montpelier to say farewell. Morning clouds were down on the old city when we entered the church. But as the service, brief at her firm orders proceeded, we could see the day brightening through the windows as we remembered her wonderous life.

We took her to her place of rest on a sunny hillside above the Winooski River, a quiet place of birdsong and much greenery. And then we all went to her beloved home to talk and think of her some more. And after much reflection, some things come crystal clear and others will be a longer time settling, but I do know this:

Bernice Murray showed us all that this thing we call "the system," this often perplexing creation of mankind, this governmental and elective thing we deal with every day, can indeed work. She reminded us that there is still a logic and a positive intent to most of the offices and forms and regulations. If somebody cares enough to understand this thing, and to use it well and to fight it when necessary, it can be made to work for the benefit of

a great many good and decent human beings.

Nobody ever, ever, made the system work better than Bernice. Whether it was to benefit hurricane victims in the Caribbean, or an elderly couple in rural Vermont in need of a place to live, or a Soviet emigré seeking a refuge where he could speak to the world of the wonders of freedom and the dangers of oppression, Bernice Murray made the system work to help people.

That was a wonderous contribution, yet only part of a rich and full life. My State, my Nation, are the poorer for her having left us too early, but the better for her having been among us being Bernice, helping and loving people. For that we are thankful. I miss her a great deal.●

SPRINGWATER AT 175

● Mr. D'AMATO. Mr. President, I rise today to speak in celebration of the town of Springwater's 175 years of incorporation. The area was incorporated in 1817 from a part of Ontario County. A town noted for its scenery with its hills and water, along with an eagle soaring overhead, Springwater has managed to thrive over the past 175 years. I take pride in raising my voice in celebration of the anniversary of this great town.

Although Springwater is small by way of population, 2,407 people, it is the largest township in Livingston County with 54 square miles of land and 80 miles of town highway plus nearly 40 miles of State and county roadway. Springwater boasts the highest elevation point of Livingston county at 2,250 feet.

Oliver Jennings was the first town supervisor in 1817. The town has had a total of 44 town supervisors during its 175 years. Howard Kramer is the present supervisor.

Like other rural townships in the country, there has been a great change over the years. Farming and small industries have decreased. The town has become more residential and recreational in focus. People tend to commute to other areas for work.

I am proud to represent Springwater and towns like it. It is people like the good people of Springwater who make up the fabric of American life. I ask my colleagues, and all Americans to recognize the value of the small town and celebrate the ability of this town to bloom and prosper over 175 years of change. I salute the residents, and congratulate the town of Springwater on its anniversary.●

● Mr. RIEGLE. Mr. President, this morning we held a hearing in the Banking Committee, continuing our series on the state of the economy and our international competitiveness. Today's hearing focused on implications for labor of changes in the U.S. economy, including increased globalization. Testifying were Gerald W. McEntee, president of the American Federation of State, County and Municipal Employees; Lynn Williams, president of the United Steelworkers of America; and Jack Seinkman, president of the Amalgamated Clothing and Textile Workers Union.

Over the past 3 years the Banking Committee has held a number of hearings focusing on the condition of the U.S. industrial and financial base. One of the most consistent concerns raised during those hearings has been the erosion of our high value-added manufacturing industries, the loss of high wage jobs, and the lowering of the standard of living of our citizens.

Two years ago, the Commission on the Skills of the American Workforce, cochaired by two former Secretaries of Labor, William Brock and Ray Marshall, issued a report entitled "America's Choice: High Skills or Low Wages!". The commission unanimously came to the conclusion that the American work force must move to a high-skill/high-wage strategy if we are to maintain our standard of living.

I strongly agree that the creation of high skill, high wage jobs is vital to our economic future. As Henry Ford proved almost a century ago, rising wages and incomes is the key to an increasing standard of living and to economic growth. Rising incomes through high skill, high wage jobs means an increasing standard of living and increased investment, which in turn generate economic growth and more jobs. I believe we need a new economic strategy to restart this cycle of investment and job creation—a team America strategy with the focus on investing in America to create quality jobs.

The comments of the witnesses today illustrated both our problems and the fact that we have alternatives. For example, Gerald McEntee stated that "today, America wins few gold, silver, or even bronze medals in international competitiveness races. Where America once led the world, it is increasingly taking 7th, 12th, 14th, 19th, 28th, or even last place."

Lynn Williams made the point that "our chief competitive challenge is to develop a world class work force which can attract and support high wage industries located in the United States." Jack Sheinkman remarked that our competitor nations who follow the high wage strategy "understand that you can provide more secure and satisfying jobs and, at the same time, produce more competitive products."

I believe that the testimony of these three labor leaders was a very powerful and illuminating description of economic problems and an insightful analysis of what we need to do to regain our economic future. I would urge my colleagues to review these statements and ask that they be included in the RECORD.

The material follows:

TESTIMONY OF JACK SHEINKMAN

ACTWU members, like millions of other industrial and other workers in America, are suffering in an economy that has lost its way. They struggle with increasing difficulty to sustain their families' living standards and live in constant fear of losing their jobs, their healthcare, and even their homes. They "work hard and play by the rules," as Governor Clinton says, but, nevertheless, steadily lose ground.

They know the acute pain of recession but are aware that our nation's economic problems run much deeper than the current downturn. They look to their elected representatives for help but too often find indifference, and worse. They know firsthand the abject failure of the Reagan/Bush economic policies and are prepared to support candidates for office who offer meaningful alternatives.

America, once the world's greatest nation, is now the world's largest debtor. Our trade deficit balloons as our manufacturing base shrivels. Our cities—and too many people who live in them—are dying. Our banking system is a basket case. Poverty and inequality grow as living standards erode. Real wages are 8 to 9 percent below what they were in 1979.

Young workers are especially hard hit. Economists tell me that the real income of the average male high school graduates, who's been working for up to five years is more than 20 percent below where that same type of person's income was in 1979. Most of us who lived through the 1945 to 1975 period did pretty well. If you're 45 years old or older in America today, statistically you're doing significantly better than your parents did. If you're between 30 and 45, you're doing just about as well. If you're below 30 you're doing a lot worse.

Families struggle by working harder and going into debt. Workers put in longer hours and take extra jobs. They also send more family members to work. Like business and government, households went heavily in the red in the 1980's. Families had to borrow in order to keep their living standards up.

But government and business didn't have that excuse. Reagan and Bush borrowed to give tax breaks to the rich and increase military spending. Corporations borrowed so much for leveraged buy-outs, and paper speculation that over half of all pre-tax profits are now going for debt service. Add deregulation to this borrowing and stir in the general Reagan/Bush encouragement of the economics of greed, and you have a recipe for economic disaster.

Simply stated, the economic policies of the Reagan/Bush Administrations failed to deal with the nation's fundamental problems; twenty years of economic stagnation and a steady erosion of the nation's competitiveness. Instead they produced the largest redistribution of income in our nation's history—from the poor and middle-class to the rich. The resulting imbalances have landed us in what is already the longest recession since World War II.

The brutal reality is: the United States no longer dominates the world economy the way it did after World War II. Other countries recovered from the devastation of the war. They adopted industrial policies targeting our markets first in apparel and textiles, then in steel, automobiles, and electronics. We kept pouring our best scientists and engineers into military research and development while other nations put their best scientists and engineers to work making

products subsidized by governments that would undercut us in world marketplaces. The result was that industry after industry in the United States has dramatically lost market share over the last 15 years. We are now forced to compete in a global economy, in which capital and technology can be shipped around the world in search of low wages.

In the America of twenty years ago, high wages were considered good for the country. There was little import competition. America was a closed economy. Automobile companies, for example, sold their cars. Their workers made good wages and bought the cars. The companies made profits and more cars, and the cycle started again. By and large this arrangement worked, and high wages contributed to economic health.

But in the new global economy, wages are now seen as a problem. Corporations now say that high wages are a burden on the economy because we have to keep costs low to compete.

This is not forcing us to answer a simple but fundamental question: How do we compete in a world of over five billion people, most of them willing to work for a lot less than we are, without cutting our wages and living standards? The answer to this question will dictate the living standards of our children and grandchildren; it will dictate how well we do after we get a pension. The answer to this question will determine the kinds of jobs that will be available in the 1990's and beyond whether or not we can take care of our sick, and provide education opportunities for our children.

Income has been redistributed upward in the 1980's. The problem will not be solved by simply saying there ought to be more tax fairness. Economists estimate that fully 80 percent of the redistribution of income from the lower 70 percent to the upper 10 percent occurred *before* taxes. That tells us that the real problem is in the jobs. There's not enough gross pay in the paychecks. This, in turn, reflects the fact that we are not creating the high-wage jobs which reflects the stagnation of the American economy and our faltering competitiveness.

There are two ways to compete. One is the low-wage path: cut your prices, cut your wages and benefits, and try to compete in the world by lowering labor costs.

What does the low-wage path look like? To go down the low-wage path, you cut social programs like housing, education, health, unemployment compensation, you turn the unemployed into the homeless so that people will be desperate to take a job at any wage. You encourage employers to break trade unions. You let them fire strikers. You embrace unregulated trade to keep import pressure on workers, so that the employer can lower his wage offer.

You make a trade agreement with Mexico that gives the multinationals an option to produce in Mexico and shift production there where wages are one tenth of ours and there is no enforcement of health, safety, or environmental standards. The motivation for the NAFTA is not to give American corporations access to Mexican consumers. The average Mexican is so poor and has so little money that there's no consumer market down there except for a few rich people. The purpose of this deal is to give American corporations access to cheap labor.

Another thing you do in the low-wage path is to ignore the decline in manufacturing in America. You arrange the economic system so that the person who makes money in this country is not the guy who invests in a product that keeps somebody working for 15 or 20 years, but it's the guy who speculates in commodity options or the like.

This is the economic policy we have been pursuing for the past 15 years. It is a low-wage strategy for competing in the world. And it should be no surprise that it has resulted in low wages. The drop in wages will not end until we leave the low-wage path.

Whether or not the current recession is coming to an end, our problems are not. Almost all the forecasters expect the high unemployment rate to continue for at least the next three years. Economists estimate that, on our current path, by the year 2000, young workers will be losing another 20 percent in income if he or she has a job at all. And it's not just the high school graduates, who are most of the American labor force, Many recent college graduates can't find a job. They're home living with their parents. So we see that the low-wage path is widening; there are more of us on it. We're competing in the world by getting poorer.

Instead, we ought to be talking about pursuing a high-wage strategy. The high-wage path is where you invest in people, change the way you work to raise the quality of your product, and market aggressively so that you can sell at a high enough price to support high wages.

First, we need to invest in our people, in their education and training, in their health and safety. Every American young person ought to be guaranteed an opportunity for post-secondary education or vocational training. We need a single payer national health insurance program covering all Americans, bringing America up to the bare minimum level of civilized nations in this world.

Second, we need public investment to rebuild our infrastructure—bridges, roads, sewer and water systems. We need to build the basis for new industries in this country. The Europeans and Japanese experiment with automated highways, new environmental technologies, electric cars, and fiber optics. If we don't start doing the same, the result will be that the markets of the late 1990's and 21st century will be theirs and not ours.

Third, we need to encourage private investment in the United States by taxing and discouraging speculation, using the money to subsidize research and development for industries that want to produce in America. We have to stop all tax breaks and subsidies for industries that want to use our market but do not want to produce here.

Fourth, we need sensible industrial and trade policies. It's common sense to recognize that industry needs the leadership and support of government to meet increasingly fierce international competition. And trade will only support rising American living standards if it is fair.

Fifth, we've got to restore tax fairness. The rich in America are the most under taxed upper class in the industrial world. So it's about time we got some of that back by raising the top rate on the income tax.

Finally, we have to support a more participatory workplace. A high-wage strategy means a highly unionized workforce. It's not just a question of fairness or the fundamental rights of workers in a democracy. There are also economic reasons why we need a unionized labor force. Productivity is higher in unionized plants than in non-unionized plants. When people work together as a team, you get better quality products and more productivity.

Higher wages are also an incentive to higher efficiency. This is something that people have forgotten in the last 10 years. If you're paying someone $15.00 an hour, you're going to make sure you use that person effectively. If you're paying them $5.00 an hour, productivity is not so important.

It might be asked: "Is it really possible to have a high-wage strategy in the world that we live in today? Almost everybody would say the high-wage countries can't compete in low-wage industries like textiles. But the Germans, with the world's highest wage rates, are selling textiles all over the globe. They're selling textiles to China. The Germans have high wages, a high rate of unionization, high spending on domestic social programs, and they have the lowest number of hours worked in a year. This is not something particular with the Germans. Other European countries are competing, and the Japanese are certainly competing. These countries are organized to go down the high-wage path.

These nations understand that if you treat people like human beings you get higher quality products, more efficiently produced. They understand that you can provide more secure and satisfying jobs and, at the same time, produce more competitive products. Apparently we have yet to learn this crucial lesson.

All this adds up to an appealing, common sense program that addresses our fundamental economic problems and renews the hope of America's workers that their efforts will once again yield a more secure, more just, and more prosperous future for all Americans.

But many in Washington respond by saying: "Well, these are really good ideas, but we have no money." They say that because of the budget deal last Fall with George Bush, the country doesn't have any money to invest in people, infrastructure, and new technologies. I say that if the budget deal is stopping us from taking care of America's future, then we should tear up the budget deal.

Why is it that money can be found for so many other purposes. There is $500 billion for the savings and loan bailout. Another $130 billion of American taxpayers money is going to Western Europe to defend them against a foe that no longer exists.

Tax breaks over the 1980's allowed U.S. corporations to borrow over $1 trillion, not for plant and equipment, but for mergers, leveraged buy-outs, and other useless activities.

Another excuse some give us is that nobody wants a more active government anymore, that we've got to get government out of the economy. But it's not the size of government that counts, it's what government does. George Bush's government is too big because it's doing nothing. John Kennedy's wasn't too big because it was solving real problems.

Finally, some say you can't have an economic system that runs on the basis of human values, or tries to serve the national interest. It doesn't work, only the bottom line of corporate profits count. I say it is the *only* kind of economy capable of succeeding in today's international competition. And it is the only kind of economy consistent with the values of the American people.

America needs a textile and apparel industry. After a quarter century of import competition, these industries still employ 1.7 million Americans, disproportionately immigrant and minority. The majority are women, often single mothers. To sacrifice the jobs these industries provide is to saw off the bottom rungs of the ladder of economic opportunity.

America also needs a steel industry. And an automobile industry. And an aircraft industry. And a computer industry. America needs industries that provide jobs that pay enough to support American families in dignity. There is no higher purpose for an economic system.

The living standards of millions of American families are hanging in the balance. Unless we change course and embrace a high wage strategy to restart growth and restore our nation's competitiveness, we will witness the first generation of Americans with living standards lower than that of their parents. We can and must do better, for our children if not for ourselves.

TESTIMONY OF GERALD W. MCENTEE

Mr. Chairman and members of the Committee, I am Gerald W. McEntee, International President of the 1.3 million-member American Federation of State, County and Municipal Employees, representing state and local government workers, university and health care workers throughout the country. I commend this Committee for holding this hearing on the state of the economy and the impact of what a loss of competitiveness means for the standard of living of Americans.

Mr. Chairman, I want to start by sharing with you my vision for America in the 21st century. It is a very different vision from the America of today where cities—and too many people who live in them—are dying and where our state and local governments are mired in budget traumas that force devastating cuts in vital services.

I want to see an America with cities where garbage is picked up seven days a week; where mail is delivered three times a day; where every street is swept by hand each day; where subway trains come every 80 seconds at rush hour and where many Metro stops are decorated with mosaics and murals. I want to see American families of all income levels, including the affluent, living in our center cities and sending their children to public schools.

I want to see an America where productivity and living standards climb while the average number of hours worked decline, and where full-time workers are guaranteed five weeks of paid vacation.

I want to see an America where everyone has health insurance and where families have paid parental leave. I want to see an America where high quality child care is universally available. I want to see an America where laid off workers are guaranteed long-term unemployment benefits and retraining for real jobs that pay as well as their lost jobs.

I want to see an America with an infrastructure system which includes high speed trains connecting our major cities in half a day's time and a world-class telecommunications network.

My list goes on, but, by now you have probably concluded that I am either a hopeless utopian dreamer or I have read too many science fiction books.

Mr. Chairman, I am here to tell you that everything that I have just described is already a reality for millions of workers. It is just that none of those workers are American.

Parisians live in the city with the impressive array of public services, all performed by unionized employees, which I just described to you. Workers in 12 European countries receive five weeks of paid vacation, mandated by law, and work fewer hours than American workers. Austria, Canada, France, Germany, Sweden and the United Kingdom all provide universal health insurance and paid parental leave. French parents are able to place their preschoolers in day care centers staffed with workers who are required to have a year of college level training in early childhood development. Japan and France have trains which travel at 230 miles per hour. Unemployed Dutch workers collect 70 percent of their last pay for 36 months while Danes who lose their jobs collect 90 percent of their former wage for 30 months.

U.S. ECONOMIC PROBLEMS

The unfortunate legacy of 12 years of Reagan-Bush is an America struggling with both short- and long-term economic problems and unable to do for the majority of its citizens what our industrial competitors do for theirs. During the last two Administrations, the U.S. became the world's largest debtor. We now owe our foreign creditors over $600 billion. Our manufacturing base has shriveled. We have accumulated a massive trade deficit. Our banking system lies in shambles. Economic growth has been sluggish—an average of less than 2.6 percent since 1980 and just .6 percent since President Bush took office. The national rates of investment and savings have declined while the rates of personal, private and public debt have soared. And, unemployment has skyrocketed.

Working families are paying the price of those 12 years of economic decline. During that time the richest one percent have seen their after-tax incomes rise by 75 percent while over 70 percent of all Americans have seen their real wages and standard of living decline. Today, real wages—wages minus the increases in living costs—are eight to nine percent below where they were in 1979. It has been especially hard on the young. The real income of a male high school graduate with five years work experience is more than 20 percent below where that same type of person's income was in 1979. This is not the drop-out or the kid that takes drugs. This is the kid that did what he was supposed to do—get a diploma and a job—and yet, the payback for all his hard work has been a 20 percent decline in real income.

And, the pain is spreading. It is not just the high school graduate who is getting kicked in the teeth. For the past five years, living standards for college graduates have also been on the decline. Wages of college graduates have fallen by 3.1 percent since 1987, two years before the current recession began.

In the 1980s, families struggling to keep their standard of living afloat did so in two ways: by sending more members of the family into the workplace and by borrowing. Only in America does it take two to support one family. Fifty-eight percent of American families need two incomes to keep their standard of living from dropping further. In France and Japan only 33 percent of all families have double incomes; in Italy, 20 percent, and in Germany, a mere 18 percent. Without those second incomes, the American standard of living would be the lowest among the G–7 nations—the United States, Germany, Japan, the United Kingdom, France, Italy and Canada.

STATE AND LOCAL FISCAL CRISIS

While the family was being buffeted by the economic ill winds, state and local governments were receiving the worst fiscal battering since the Great Depression. Throughout the 1980s, the Administration and Congress squeezed the budgets of state and local governments in an ever-tightening fiscal vise by reducing federal support while mandating additional public services. Federal aid dropped from 26 percent of state and local budgets in 1980 to 19 percent by 1990.

In the last fiscal year, 1991–1992, state and local governments, faced with a combined deficit of over $50 billion, eliminated programs, froze payrolls or laid off workers and raised taxes, fees, and tuition at public educational institutions. The effect of this belt-tightening was to place a severe drag on the economy by taking money out of the pockets of consumers during a recession through tax increases and layoffs and to increase the unemployment rate by one-half to one percent.

Contrary to the widely perceived impression that state and local spending has grown wildly since 1975, relative to the rest of the economy, it actually fell. Three-quarters of the increase in state and local spending during the 1980s was due to inflation alone. Beyond that, population growth of nine percent and economic growth of 30 percent after inflation both put added burdens on state and local budgets. In the final analysis, state and local spending in 1990 consumed a smaller portion of the nation's Gross Domestic Product (GDP) than it did in 1975.

DECLINING INTERNATIONAL COMPETITIVENESS

Mr. Chairman, we must ask ourselves "how did America falter while our industrial competitors were surging ahead?" And, "what must we do *now* to insure that America will be a leading competitor in the economic Olympics of the next century?" Presidents Reagan and Bush promised the American people that by reducing government's role in the economy, the free market system would bring prosperity and economic growth. But, today, America wins few Gold, Silver or even Bronze medals in international competitiveness races. Where America once led the world, it is increasingly taking 7th, 12th, 14th, 17th, 19th, 28th, or even last place. For example:

U.S. productivity growth from 1973–1985 lagged six of our chief economic rivals. Japan got the Gold medal; West Germany, the Silver; France, the Bronze; with Italy, the United Kingdom, and Canada also outpacing us.

Among the G–7 nations, America has had the lowest ratio of public investment during the same period. Once again Japan takes the Gold.

America's investment in itself, in scientific and industrial research and development, in roads and communications, in new factories and equipment, is the smallest among all modern nations save only for Ireland—17.1 percent of U.S. GDP is invested in assets that produce wealth, versus, at the top of the scale, the 30.6 percent of GDP that Japan puts back into productive investments.

The United States ranked 17th in 1986—the latest data—out of 18 industrial countries in gross capital infrastructure investment by the Organization of Economic Cooperative Development (OECD). Here again, we trailed all of our major competitors including West Germany, Japan, France, the United Kingdom, Italy and Canada.

The United States ranked 19th in 1986 in the number of school-age children per teacher—23 to one—behind the western industrial countries, but, also behind Cuba, Libya, and Lebanon. Our 8th grade students ranked 12th in mathematical achievement. And, U.S. spending on elementary and secondary education, as a percent of Gross National Product (GNP), earned in 14th place, once again behind Japan, West Germany, France, the United Kingdom, Italy, Norway, Denmark and Canada.

The United States ranked 19th in 1989 in mortality rates for infants and children under five years of age; 17th in the percentage of children immunized against polio; and 28th in the percentage of low birth weight babies.

Among the G–7, Germany gets Gold medals for the highest salaries, fewest hours worked, lowest levels of poverty and personal and national debt. This is despite the costs of absorbing an economically invigorating 20 percent of its populations in the east.

The U.S. domestic public sector is all in comparison to those in other advanced industrial countries. Using 1988 data compiled by the International Monetary Fund and OECD, government expenditures as a percent of GDP were the lowest, 36.4 percent, in the U.S. By comparison, the countries with the best growth rates and improvements in quality of life have larger civilian governments. In West Germany (prior to unification; with unification, its public sector has grown), for example, government expenditures were 47.77 percent of GDP; in France, 48.78 percent; in the United Kingdom, 40.45 percent; and in Canada, 44.47 percent.

In addition to having a small civilian public work force in comparison with our international trading partners, the state and local governments in the United States perform many of the functions performed by the central government in those other countries. Besides fulfilling traditionally local functions in the areas of public safety, sanitation, recreation, public education and local transportation, state and local governments in the United States have major responsibility for industrial policy, economic development, infrastructure, health care, the environment and eliminating poverty and inequality.

The United States also has among the lowest rates of growth of public spending. Indeed, as a percent of all civilian employment in the economy, the U.S. civilian public sector has been contracting for 15 years, from 18 percent in 1975 to 15.5 percent in 1989. Following suit, total state and local employment peaked at 14 percent in 1975 and had fallen to 12.5 percent by 1989.

ECONOMIC RECOVERY PLAN

The basic cause of America's decline is not shrouded in mystery. It is the direct result of more than a decade of disinvestment in domestic programs including education, job training, housing, civilian technology and infrastructure. Our competitors are overtaking us in large part because they invest in their people, infrastructure, and civilian research and technology while we do not.

In 1989, the Economic Policy Institute sponsored a public statement signed by 327 economists, including six Nobel Prize winners. It described a growing Public Investment Deficit and issued a clarion call to the Congress and the President that "the deficiency of public investment in our people and our economic infrastructure will have a crippling effect on America's future competitiveness." This warning was not heeded and three years later, gripped by the longest recession since 1932, the situation has gotten appreciably worse.

As the economy continues to dip in and out of recession levels and the unemployment rolls swell with more white collar and professional workers than in previous recessions, discussions of what the federal government should do have escalated, but, any real action has been meager.

Mr. Chairman, I am here today, to once again urge this Congress to enact a bold economic recovery plan which would simultaneously stimulate the economy and begin to reverse the decline in investment which is at the root of this nation's economic and competitiveness problems. The federal governments should immediately begin a multiyear expansion of public investment in human capital, infrastructure and civilian technology.

JOBS

In order to maintain a high standard of living, the United States should be pursing a strategy to create high wage jobs. The key to that strategy is an increase in public and private investment. The first thing which the federal government should do is invest in our people, in their education and training and in their health and safety. Returns to the nation from human capital investment are high. Job performance rises with education and training. In the first two years after a worker is trained, his or her productivity rises four or five times faster than compensation. One dollar invested in Head Start saves $4 to $6 in special education, public assistance and crime costs. One dollar invested in prenatal care saves $4.38 in care for low-birth weight babies.

HEALTH CARE REFORM

In the area of health care, we need a single payer national health care program covering all Americans. This would bring America up to the level of every other industrialized nation. Additionally, a national health care system would be the single greatest assistance to state and local governments in getting their deficits under control. In setting their 1991 budgets, 37 states failed to anticipate the full cost of health care even though they budgeted for a 10 percent increase. And in 1992, the gap between spending needs and available resources was estimated at $50 billion. In 1986, state and local governments spent $71.4 billion on health care, or 15 percent of their revenues. This climbed to $120 billion by 1991, or 19 percent of revenues. By the year 2000, health care will drain state and local governments of $307 billion annually—28 percent of revenue.

INFRASTRUCTURE INVESTMENT

Next, the federal government needs to increase public investment in rebuilding our infrastructure systems. The direct association between productivity and infrastructure investment have also been proven. Recent research suggests that each additional dollar of public infrastructure investment raises private investment by 45 cents. If, since 1970, the United States had maintained in 1950's and 1960's share of GNP for core infrastructure, productivity growth would have been 50 percent higher; the average profit rate would have been 22 percent higher; and the rate of private investment would have increased by 19 percent.

PUBLIC INVESTMENT: STRATEGY FOR GROWTH

Mr. Chairman, I recommend that the Congress spend a minimum of $60 billion a year more for public investment than it is doing now for the next five years. We cannot restore America to world-class competitive levels without spending money. A survey by the Economic Policy Institute of sector-by-sector needs last fall concluded that "it would take a minimum of $60 billion in additional spending this year just to keep basic human and physcial infrastructure from deteriorating further. This is also approximately the average fiscal stimulus (one percent of GNP) provided by the federal government in the last six recessions. A serious program to begin to repair the damage from a decade of neglect and to make significant additions to the nation's public capital would cost $125 billion—roughly double our current spending level." Economist Robert Heilbroner estimates that we would need to quadruple our public investment in order to be even with Germany's and Japan's. Unless we increase public investment, it is unlikely that private investment will increase significantly, no matter what happens to the deficit.

CONCLUSION

The stark reality is that there is no way to regain our economic competitive position without increased government spending. Failing to invest leads to a further widening of the already gaping public investment gap which inevitably means a continued and deepening erosion of our living standards and competitiveness. Reducing military spending more rapidly with an emphasis on economic conversion will help achieve needed spending savings and overhauling our health care system will prevent those expenditures from further draining the public treasuries. In the short-term, however, the only way back to economic health is to borrow and ultimately, when the economy improves, to tax for investment.

If we had borrowed for investment in the 1980s instead of borrowing to pay for tax cuts to upper income taxpayers and for fancy military hardware, we would not have the fiscal or investment deficits that we have today. And, if the U.S. tax share were equal to the average of the OECD nations, we would be raising more than $400 billion in additional federal, state and local government revenues with about 60 percent going to the federal government under current proportions. Of the 25 OECD nations, only Turkey ranks below the U.S. in total taxes as a percentage of GDP.

Tomorrow, AFSCME will release the first comprehensive state-by-state, program-by-program, year-by-year analysis of the domestic spending cuts of the last 10 years. Many of the services cut were shifted into the states when the Federal government abrogated its responsibility. This study will provide he quantitative analysis behind the stories we all know so well—the riots in L.A., the mounting problem of the homeless, the deterioration of our education system, the abandonment of job training and more. In all, our report shows more than $200 billion in cuts over a decade—including a $30 billion-plus cut in spending on infrastructure and more than a $70 billion cut in job training programs. This report, called *The Republican Record*, further documents the disinvestment in America.

Mr. Chairman, we cannot wait any longer. Let us learn from the lessons of the past 12 years. Let us look to the successful economies of our competitors. In order to brake the precipitous economic tailspin that the United States is caught up in, I urge the Congress to initiate a bold public investment program now.

I want to express my appreciation for this opportunity to testify before this Committee and would be pleased to answer any questions you may have.

TESTIMONY OF LYNN R. WILLIAMS

There are many profiles of the current state of the economy. However, the one which has an immediate social impact reflects the ability or capacity of the economy to sustain the nation's work force in gainful employment. On that one measurement alone the present macroeconomic policy of the Bush Administration has failed and has

been operating at a failure level for quite some time. The rate of unemployment is at an all time high 7.8 percent. If we count those workers who are no longer seeking employment—because of the futility of the search—the rate is closer to 10 percent.

In the steel sector, employment in April 1992 at 179,000 steelworkers is 3.8 percent lower than last year (year-to-date basis). At the bargaining table these pressures are translated into demands for wage and health care concessions. Such responses are not meaningful when we are confronted with basic defaults in the nation's economic policy.

The 12 years of the Reagan-Bush administrations have demonstrated one thing very clearly: supply-side economics does not work. In 1981, Ronald Reagan and George Bush took office promising that their policies of tax cuts aimed at the wealthy and reducing the government's involvement in the economy would lead to greater economic growth and prosperity for everyone. After 12 years of this experiment we've seen that their policies have meant great prosperity for a select few, the richest 1 percent who have had their after-tax incomes rise by 75 percent, but have led to declining living standards and uncertainty about the future for the bulk of the population. Unfortunately, many still have not learned the lesson that bribing the wealthy with tax cuts is not the way to prosperity, as even now the President and many members of Congress continue to support capital gains tax cuts and other benefit programs for the wealthy.

Such policies, which were supposed to spawn vast amounts of new growth and investment, instead led to stagnation and debt. Economic growth averaged less than 2.6 percent over the last twelve years, and just .6 percent over the last three, a reduction even from the oil-shock afflicted decade of the 70's. The savings rate, instead of rising, as the supply-siders forecast, fell to its lowest rate ever. Investment as a share of national income took a similar downturn. At the same time debt of all types built up at unprecedented rates. The federal debt went from under $1 trillion to over $4 trillion. Private debt rose at an even more rapid rate, so that interest payments now absorb approximately 40 percent of corporate earnings. Household debt rose to the point where it is almost equal to disposable income. For the first time since the depression we have seen widespread failures in the banking system, leaving a bill of hundreds of billions of dollars for the taxpayers. In the span of a decade the U.S. went from being the world's largest creditor to the world's largest debtor, with a foreign debt that now exceeds $600 billion.

These statistics reflect real hardships for tens of millions of Americans. More than 70 percent saw their real wages fall during the last 12 years. Families have only been able to hold their own by increasing the amount of time they work. Even with the additional hours put in, most families ended up worse off once increased child care, transportation and other job related expenses are factored in. For the first time since the depression poverty rates have been steadily increasing rather than decreasing. Nearly one fourth of the nation's children are now living in poverty. The cost of having one quarter of this generation of young people growing up without adequate health care, housing, and economic opportunities can be seen as yet one more negative legacy of the Reagan-Bush era.

While the Bush Administration resisted any substantive changes with its economic strategy, it was even unwilling to respond to some of the negative consequences of the policy. I refer to the Administration's initial opposition and veto of an extension of unemployment compensation and its pending threat to veto a family and medical leave bill. Because of the economic stress put on the family unit, both spouses, in many circumstances, have been forced into the workplace but jeopardize their earnings if either one must attend to temporary medical problems at home.

The Reagan-Bush policies have left us with both a short-term and long-term problem. In the short-term, we are confronted by the fact that Bush's recession is now entering its third year, as the economy remains virtually stagnant and unemployment stood at 7.8 percent in June. There is little basis for any substantial improvement in the foreseeable future, as even the optimistic forecasts predict very weak growth. In the long-term there is the problem of restoring a sound basis for sustained growth after 12 years in which the federal government has neglected its responsibilities.

INFRASTRUCTURE

It will not be easy to overcome this legacy, but it is possible. The federal government should immediately take steps that will simultaneously stimulate the economy and begin to reverse the decline in investment. The best way to do this is to initiate an ambitious program of public investment. Such a program would address the vast, unmet needs in infrastructure repairs and improvements that have been allowed to build up over the last 12 years as yet another legacy of the Reagan-Bush administration. During this period, spending on infrastructure has fallen from 5 percent of federal spending to less than 2.5 percent. As a result, roads and bridges have deteriorated, highways and airports have become overcrowded, and our telecommunications network has fallen behind those of our competitors. The economic costs of inadequate transportation, communication, and sanitation networks are clear. Commuters are forced to spend enormous time tied up in traffic. Deliveries of parts and materials to factories are similarly delayed. The environment is degraded as a result to inadequate waste treatment facilities. The introduction of new technologies is obstructed by an outmoded communications network.

In a recent study conducted for the Economic Policy Institute, the economist David Aschauer examined the effect of infrastructure spending on economic growth. He concluded that productivity growth would have averaged 2.1 percent per year, instead of 1.4 percent, if infrastructure spending had been kept at the same percentage of GNP that it was in the 1960s. The United States currently ranks last among the major industrialized nations in the share of its output devoted to infrastructure investment. If this is allowed to continue, it will only lead to further relative decline and stagnation. Reducing this deficit in infrastructure investment also makes sense in the short-run because it is a way to immediately put money into the economy and people back to work. Former Secretary of Transportation, Samuel Skinner, estimated that $1 billion dollars of infrastructure spending creates between 30,000 and 50,000 new jobs. Estimates from the Federal Highway Authority, Congressional Budget Office, the Environmental Protection Agency and other sources, point to over $100 billion in additional annual expenditures that will be needed to maintain and improve the nation's highways, bridges, airports, mass transit, and waste treatment facilities. If even half of this spending is forthcoming it will lead to over 1 million jobs in the short-run, in addition to the higher growth produced in the long-run. As a further short-term benefit from such spending, employment gains are likely to be concentrated in construction and related industries, which have been particularly hard hit by the recession and the over-building of the 80s.

Recovering from the neglect of the Reagan-Bush years will require more than an infusion of new infrastructure investment. The federal government has allowed its support for the development and diffusion of new technologies to lag to the point where many of our most vital industries are now falling technologically behind those of our competitors. A relatively small investment in developing industrial extension programs, modelled on the highly successful agricultural extension programs established in the 19th century, is likely to have a tremendous payback in the diffusion of new technologies among small and medium sized firms. The U.S. achieved its preeminence in technology in large part because the federal government was willing to assist the private sector in developing new technologies, a point well demonstrated by the examples of the aerospace and computer industries, it cannot maintain its preeminence if the government neglects this role.

EDUCATION

More broadly, the federal government must look to rebuilding its education system so that it is on a par with those of other industrialized nations. This will mean reform and improvements at every level, from full funding of Head Start to increase support for K–12 education, particularly for disadvantage children, to increased availability of loans for college students. Some of this spending, such as an expanded student loan program, will be paid back quickly. In other cases the payback will be more long-term in the form of a better educated more productive work force, which will be more likely to pay taxes and less likely to need welfare. Either way, the payback is likely to exceed the additional expenditures required.

The government must also look beyond traditional education and promote more training at the workplace in order to support a lifelong process of learning and skill acquisition. Relatively small tax incentives should be effective in achieving this end, since firms are likely to experience significant gains in productivity as a payback from having a more highly skilled workforce. Similarly, the government should promote a more flexible work environment, where the rigid hierarchy between management and labor has been broken down, and workers genuinely participate in every facet of corporate decision-making. As several recent studies have clearly demonstrated, effective union-management cooperation involving real power sharing, is essential for a high productivity economy.

FINANCE AND PUBLIC INVESTMENT

We have an historic opportunity to reverse our course and begin to invest in the resources which will pay back dividends for generations. Our nation's competitiveness—indeed, our future—rests on the building blocks of capital and human resources. We cannot continue to live off the past; we must move aggressively toward the future.

As a member of the Competitiveness Policy Council, and Chair of its Training Subcouncil, I have become even more convinced of this investment imperative. As Bob Reich

and others have articulated so well, nations will increasingly compete on the strength of their workforces. Our chief competitive challenge is to develop a world class workforce which can attract and support high wage industries located in the United States. However, the reverse trend may already be in place. The Congressional Competitiveness Caucus reports: "During the 1980s the United States lost nearly 7 percent (or 1.4 million) of its manufacturing jobs.

This public investment strategy in infrastructure, education, and training will necessitate increased spending. Some of this can come from the military budget which is still much larger than necessary in a post-cold war world. Tax increases on the wealthy can also finance some of the needed spending. It's worth noting that the increases being discussed by the Clinton campaign, to a top marginal rate of 35 percent, would still leave tax rates at half their pre-Reagan-Bush level. This hardly seems like an excessive burden. Richard Musgrave, the nation's preeminent public finance economist, recently argued for a top marginal income tax rate of 40 percent, claiming that this rate would have a minimal adverse effect on incentives.

DEFICIT REDUCTION OPTION

Even with the savings from the military and increased taxes on the wealthy, it will probably be necessary in the short-run to increase borrowing to finance additional public investment. Although in general it would be desirable to have a lower deficit, in current economic circumstances, we should be prepared to undertake the additional borrowing needed to finance this agenda. The economy is currently in a recession, and is forecasted to have high unemployment for several years to come. Hence the utilization of these resources, which would be committed to this public investment strategy, will not be to the detriment of other private investment activities. Most likely these resources would be sitting idle. If the government decides to make lowering the deficit its first priority it will be unable to meet the country's infrastructure and education needs. The effect would mostly be to deepen the recession with minimal, if any, positive effect on investment.

Private investment is far more likely to be stimulated by the additional demand created by an ambitious public investment program, coupled with the increased investment opportunities created by an expanding infrastructure. Several recent studies have indicated that public investment complements private investment, and in this way is likely to be a far more effective stimulus than any cut in interest rates that may result from a strategy to cut the deficit at all costs. It was exactly this line of argument that led 100 prominent economists, including 6 Nobel Prize winners, to sign a letter urging an approach of expanded public investment even at the cost of raising the deficit temporarily. As the economists stated in their recent letter: "Since the economy has idle resources of labor and capital available to meet additional spending with additional production and since the threat of inflation is minimal, it is appropriate to let these expenditures add to the deficit financed by borrowing, because it would cancel most or all of the needed stimulus if the expenditures were financed otherwise."

I might add a footnote to this debate on deficit reduction. One factor, which will have a profound impact on both public and private expenditures, will be the effort to bring health care costs under control. According to the National Leadership Coalition on Health Care Reform, savings could amount to $600 billion over the next 8 years, thereby freeing up resources for other needed expenditures. Yet we have received no positive comments from the Administration relative to this deficit reduction measure.

Another major issue of public policy that is worth addressing here is the proposed North American Free Trade Agreement. It is important that NAFTA be addressed with extreme caution. While in general the expansion of trade is desirable, neither Mexico nor the United States will benefit from a pact that gives corporations a green light to treat Mexico as an environmental waste dump, or haven for cheap labor. Any agreement that doesn't have tight restrictions on the environmental practices of the companies that move their operations to Mexico will not only lead to increased pollution there, but will also make the enforcement of environmental regulations in the U.S. far more difficult. Such a pact would give polluters the ability to blackmail communities in the U.S. rather than clean up their operations. Similarly, if there are not restrictions on the ability of corporations to seek out Mexican labor that costs less than 1/10 as much as workers in the U.S. receive, millions of American workers will be given a choice between huge cuts in pay and benefits, or losing their jobs. The decline in living standards experienced by large segments of the population in the 1980s will continue unabated into the 1990s.

It will be a difficult task to turn the economy around after 12 years of the neglect and abuse practiced by the Reagan-Bush administrations. Instead of a change from the old course, the Bush plan entails more tax breaks for business or for the wealthy. However, reducing or eliminating the enormous deficits in the nation's infrastructure investment will be an important step in the right direction, as will restoring the quality of the nation's education system. These investments coupled with a fair trade policy can lay the basis for increased competitiveness and a new round of economic growth that will benefit the whole nation, not just a wealthy few.

A recent publication by the AFL–CIO entitled "It Takes Jobs to End Recessions" says it all. At our recent Executive Council meeting last week, labor decried the minimal economic stimulative actions being taken by the government. Instead we need more aggressive fiscal measures to deal with the near-term problems of industrial economic growth for long-term job stability. Without a change in direction, we will continue to witness further stress in cur domestic market and experience additional slippage in the global market. On both fronts we are confronting job losses.●

NEW JERSEY'S 1992 SUMMER OLYMPIANS

● Mr. LAUTENBERG. Mr. President, I rise today to salute New Jersey's representatives at the 1992 summer Olympics in Barcelona. Twenty exceptional athletes from New Jersey were selected as members of the U.S. Olympic team. Each one of these individuals has dedicated years of disciplined training and hard work toward reaching this goal, allowed only to the most elite American athletes. All New Jerseyites are proud of these athletes' determination and perseverance through both triumph and defeat. For the last 2 weeks, they have been a source of inspiration for New Jerseyites and for people around the world.

One of New Jersey's two Olympic representatives to win a gold medal is Nelson Diebel of Hightstown who captured a gold medal swimming the 100-meter breaststroke. His time of 1 minute 1.50 seconds won the United States its first gold of the 1992 summer Olympics and set an Olympic record. Although Nelson was not considered a threat to win the gold, he exceeded those expectations as he has in the past. Nelson has admitted to being a rebellious teenager who used drugs and dropped out of school. Through the help of his friends, however, he was able to redirect his energy into competitive swimming. Nelson took charge of his future and turned it from certain failure to tremendous success. This fall, Nelson will be returning to Princeton University as a sophomore.

Herb Perez of Palisade Park also brought home a gold medal for his winning effort in the taekwondo middleweight competition. In the final of the demonstration sport, Herb beat his opponent 3–2. Herb had, at long last, reached this emotional moment of time after just missing his chance to compete at the 1988 Olympics in Seoul. Herb was the captain of this year's eight-member U.S. taekwondo team and was the only individual on the team to win a medal. Herb is beginning law school at Rutgers, a goal he has delayed in order to compete in the Olympics. We are extremely proud of Herb.

Other New Jerseyites distinguished themselves. James Carney from Annandale was on the 20-member U.S. cycling team. He competed in the 50-kilometer points race-team pursuit. Joetta Clark and Jack Pierce were selected by the U.S. athletics team. Jack captured a bronze medal in the 100-meter hurdles. Joetta ran the 800-meter track event. Selected on the 16-member U.S. fencing team to compete on the individual saber-team were Robert Cottingham of East Orange and Steve Mormando of Jersey City.

Both Jeffrey Hammonds of Plainfield and Ron Villone of Bergenfield were selected for the U.S. baseball team. Jeffrey played outfield and Ron pitched. Lily High was on the five-member U.S. table tennis team in both the singles and doubles competition. David Johnson of Mt. Holly participated in the three-position rifle and air rifle event.

The U.S. rowing team had three New Jerseyites. They are Jeff Klepacki of Kearny, Stephanie Maxwell-Pierson of Somerville, and John Pescatore of Ocean City. Stephanie won a bronze medal in her rowing event. Ann Kursinski of Flemington was a member of the nine-member U.S. equestrian team competing in the showjumping and cannonball events. Jon MacCausland of Medford was selected to the U.S. yachting team.

Claudio Reyna, a midfielder from Springfield, was one of the 20 members of the U.S. soccer team. Cindy Stinger of Lawrenceville played wing on the U.S. handball team. Of the 40 members of the U.S. swimming team, 3 of them were New Jerseyites. In addition to gold medalist Nelson Diebel, whom I mentioned earlier, Sean Killion of Cherry Hill swam the 400 freestyle and the 1,500 freestyle. And Ron Karnaugh of Maplewood captured the hearts and sympathy of people across the Nation and around the world.

Ron was a favorite to win the gold medal in his event, the 200-meter medley. Understandably, Ron had other things on his mind when he dived into the water for his race. You see, Ron's father, Peter Karnaugh passed away just 6 days before Ron was to swim for the gold. Mr. Karnaugh died of a heart attack while in Barcelona, watching his son participate in the opening ceremonies of the 25th summer Olympiad. Ron's family was able to travel to Barcelona with the help of their hometown of Maplewood which raised $27,000 to send his family to the Olympic site.

Despite his great loss, Ron courageously decided to compete in his race, placing sixth. Ron's unyielding determination has been an inspiration to all who know him and to all who have watched his career. Although Ron did not win a medal, he is still an Olympic champion.

Ron will be entering medical school this fall at the University of Medicine and Dentistry of New Jersey in Newark. Cards and letters from people across the Nation arrive daily expressing their condolences and generous gestures are offered. I join them in extending my deepest sympathies to Peter Karnaugh's family and friends.

The Olympic spirit is alive and is inside each member of the 1992 U.S. Olympic team. I commend all of the athletes from New Jersey for their champion efforts and wish them the best of luck in their future endeavors. The State of New Jersey is tremendously proud of them.•

COMMEMORATING OUR OLYMPIC ATHLETES

• Mr. SEYMOUR. Mr. President, I rise today to recognize the tremendous accomplishments of U.S. athletes in the XXV Olympiad in Barcelona. These Olympic games represent one of the finest showings ever for the United States of America and foreshadow what awaits us as America's athletes prepare to compete on their home turf during the XXVI Olympiad in Atlanta in 1996, the centennial year of the modern Olympics.

Again, Californians have played a substantial role on the U.S. team. Over 140 Californians participated in these games ranging from Magic Johnson and Chris Mullin of the Dream Team to Nick Becker of the men's volleyball team and Rusty Hill of the shooting team. These athletes have dedicated their lives to the perfection of their sport and participating in the Olympic games was the culmination of a lifetime of tireless dedication.

The U.S. team came home with 108 medals, and Californians contributed significantly to that total. The Olympic games were filled with upsets, remarkable comebacks, and demonstrations of team spirit.

All of California's Olympians made us proud during the 16 days of Barcelona, including several that deserve specific mention:

Pablo Morales of Santa Clara, CA, who left swimming to pursue law school after a silver medal finish in the 1984 games and then failing to make the team in 1988, came back in 1992 to fulfill his dreams of gold. After qualifying for the U.S. team, Morales went to the Olympics as the old man of U.S. swimming, and he came home with the gold in the 100-meter butterfly, beating his younger competitors. As President Bush has said, "youth and inexperience are no match for maturity and determination."

The United States men's volleyball team, made up entirely of Californians, lost a first round match to the Japanese team on a questionable appeal. Donning striking new hairstyles, or lack thereof, in a sign of solidarity, the U.S. team came back to take a bronze medal.

In track and field, UCLA alumna Jackie Joyner-Kersee from Canoga Park, CA, again proved herself to be the world's greatest female athlete by winning the heptathlon. Her fellow Bruin Gail Devers, who just 2 years ago was bedridden and suffering from severe complications from Graves disease, astonishingly won the gold medal in the 100 meters. She also held a significant lead in the 100-meter hurdles until the last hurdle when she tripped and fell, courageously crawling across the finish line to place fifth. Devers was just days away from having her feet amputated and miraculously, she came back to take the gold in a truly Olympian effort.

Quincy Watts, from Los Angeles, shattered the Olympic record on two occasions on his way to an Olympic gold medal in the 400 meters. He was joined on the award stand by fellow Californian and defending Olympic 400-meter champion Steve Lewis, who won the silver.

Californians fared equally as well in Olympic waters. Summer Sanders, who entered the Olympics as the hope of the U.S. women's swimming team, won a bronze in the 400-meter individual medley (IM), a silver in the 200-meter IM, and a gold in the 200-meter butterfly. After her amazing performance at the 1988 Seoul Olympics, Janet Evans continued her golden efforts by winning the 8000-meter freestyle.

The Olympics are much more than an athletic spectacle. Today as the world watches civil war tear apart Bosnia-Hercegovina, as horrible drought plagues East Africa, as the former Soviet Union struggles to cast the shackles of communism, the games stand out as an example of the indomitable human spirit. Athletes come together, put aside their differences, and participate in a pure form of competition.

I congratulate all the members of the U.S. Olympic team, and I look forward to the 100th anniversary of the modern Olympiad in Atlanta in 1996 and to the continued success of America's Olympic athletes.•

HONORING CHRIS BYRD

• Mr. RIEGLE. Mr. President, I rise today to pay tribute to a truly outstanding young man from my hometown of Flint; Chris Byrd. This young man made Michigan and America proud when he won the silver medal in middleweight boxing at the Olympic games in Barcelona, Spain.

Chris' Olympic win is a step in his goal to be a professional world boxing champion. Under the guidance of his father, boxing coach Joe Byrd, and with the love and guidance of his mother, Rose, and his seven brothers and sisters, Chris worked and trained hard for this very special moment.

Watching his older brothers bring home boxing trophies, Chris decided at age 5 that he wanted to bring some home, too. And he did, from the 1981 National PAL Tourney Champion all the way to an Olympic silver medal. The courage, determination and good sportsmanship of this outstanding young man holds promise for more awards in the future.

Chris is an example of what is best about young men his age. He has chosen a path of hard work, dedication to his family, and the desire to be the best. Despite a tough training schedule, Chris did not neglect his education at Mott Community College. He is a model and inspiration to young people to aim high and work hard and a source of pride to us all.

Again, let me commend Chris on his remarkable achievement in the Olympic games, and wish him continued success in his career.•

TRIBUTE TO BILL PALECK

• Mr. DECONCINI. This Friday evening in Tucson, AZ, William F. Paleck will be honored by his friends and colleagues for his outstanding service as Superintendent of Saguaro National Monument. Bill recently accepted a new assignment as Superintendent of North Cascades National Park near Sedro Woolley, WA. With the indulgence of my colleagues, I would like to take a moment to recognize the achievements of this outstanding public servant.

Bill began working for the National Park Service in 1967 as a seasonal trail laborer at Saguaro in his native Tucson. After graduating with honors from the University of Arizona in 1970 in international relations and English literature, Bill began working at Sequoia and Kings Canyon National Parks in the Sierra Nevada. It was during this assignment that Bill displayed his considerable talents as a ranger, tree sawyer, firefighter, and road patrolman and forestry technician.

Over the years, Bill has served in various positions in New York, northern Arizona, and Alaska. In 1986, after building a very respected park operation in the Alaska wilderness, Bill was moved back to his native Arizona as operations coordinator for 11 National Park Service units in the Southern Arizona Group Office in Phoenix. Obviously glad to be back home, Bill was rewarded for his efforts in 1967 when he became superintendent at Saguaro in Tucson, where I have gained tremendous respect for his abilities.

I have worked on several projects with Bill including the construction of the Red Hills Visitor Center at the west unit of Saguaro. I was impressed with the fact that Bill went to the area residents and sought their support before seeking funding for this most worthy project.

While I have tremendous admiration for Bill's abilities as a park ranger, I am most impressed by his skills as an innovator and consensus builder. Community leaders often seek his expertise regarding an array of issues and it is not uncommon to see Bill on television or quoted in the newspaper for his very credible knowledge.

Mr. President, this Senator has a great deal of personal respect for Bill Paleck. He has received many awards for his achievements including a Secretarial Commendation, Superior Performance Awards, commendations from the Pima County Planning and Zoning Commission and the mayor of Tucson. Bill finds time to be a member of the Tucson Rotary Club, and has served on the board of directors for the Federal Executive Association, Boy Scouts of America, American Youth Soccer Organization, the Rincon Institute, and Saguaro Forest Associates. He also serves on the Western Region Cooperative Education Council, the Western Region Science Program Management Advisory Board, and the National Resource Inventory and Monitoring Task Force.

Mr. President, I ask for this body to join me in conveying this country's gratitude for Bill's over 20 years of devotion and exemplary service to the United States of America and wish Bill, his wife Marcie, and sons Brian and Tyler, the very best in their new home in Washington. We, in Arizona hate losing him.

Mr. President, I ask that an article that appeared in the Arizona Daily Star on July 25, be reprinted in the RECORD.

I yield the floor.

The article follows:

[From the Arizona Daily Star, July 25, 1992]

GLACIERS BECKON SAGUARO MONUMENT'S PALECK

(By Teena Chadwell)

Next month, Bill Paleck will trade in chollas and saguaros for glaciers and snow-capped mountain peaks.

Paleck, 43, superintendent of Saguaro National Monument, is the new head of North Cascades National Park and Ross Lake and Lake Chelan national recreation areas in northeast Washington state.

Although his current office has a stunning view of wildlife and desert flora at the base of the Rincon Mountains, in late August, Paleck will take over the 700,000-acre park in Washington that includes the largest number of glaciers in the lower 48 states.

Last week, disc jockeys at a Washington radio station called him, questioning his ability to run a glacier-filled park because he is transferring to the Pacific Northwest from the desert Southwest.

"I told them that I thought about 7½ years in Alaska and doubt six years at Sequoia and Kings Canyon in California would help," he said, referring to two national parks where he has worked as a ranger.

Although his initial ambition to be an international lawyer left him with an unusual college degree for a park ranger—he majored in international relations and English literature at the University of Arizona—he knew his future would be with the national parks after he spent the summers of 1967 and 1968 working at Saguaro for $1.98 an hour.

"I enjoyed the people I was working with, and I enjoyed being out-of-doors, the 1967 Rincon High School graduate said.

In 1970, Paleck skipped college commencement to work as a back-country ranger for Sequoia and Kings Canyon national parks in northern California.

"That's kind of an idyllic lifestyle," he said.

A broken leg from a biking accident led Paleck to realize that he would probably live a little longer by managing national parks, and he spent nearly two years as a park ranger at Vanderbilt Mansion in Hyde Park, N.Y.

After hearing horror stories about New York, "I was scared for almost the whole two years," he said.

Next came a move to Wupatki and Sunset Crater national monuments in northern Arizona, then 7½ years in Alaska's 13.6 million-acre Wrangell-St. Elias Park.

Since 1988, Paleck has been in Arizona, where he spent about a year as chief of operations at the Southern Arizona group office in Phoenix. In April 1987, Paleck was appointed superintendent of Saguaro.

Although the decisions Paleck makes regarding development near the monument generate controversy in the community, friends and foes alike express dismay at losing him to another park.

Ed Moore, a Republican member of the Pima County Board of Supervisors, said that he has disagreed with Paleck several times but, "I have tremendous respect for the man."

In 1987, the Park Service proposed closing Picture Rocks Road through the Tucson Mountains unit of Saguaro National Monument. Although the road was a popular commuter route and an angry public outcry arose, Paleck "stayed right on course" and never wavered in his opinions, Moore said.

Greg Lunn, another Republican member of the Board of Supervisors, also praised Paleck.

"Unlike a lot of people in his position, he's been willing to stick his nose in community issues which are very controversial, such as the Rocking K rezoning and federal expansion of the east monument," Lunn said.

Robert Ferreira, vice president of the Tucson Mountains Association, said that even through he and Paleck "didn't always see eye to eye," he still found him to be personable, articulate and fair."

"It's a real tough juggling act and he often inadvertently gets put between the development community and the environment or neighborhood community," Ferreira said. "It's impossible for someone in his position to appease both sides."

No one has been appointed yet as the new superintendent, Paleck said.

With his new assignment about 1,600 miles from the desert monument, there are some things that have no substitute.

"I'll miss the smell of greasewood right after the rain. . .and I'll miss waking to the coo of the mourning doves," Paleck said.

Bursting with information about the monument, Paleck is obviously a park ranger at heart.

During a 30-foot walk to a picnic table at Saguaro, Paleck managed to point out two tidbits of knowledge.

"Here's the trivia question of the day," he said. "What are these ramada roofs made out of?"

The answer: surplus bomb-bay doors of U.S. B-25 bombers from World War II.

Also, Paleck plucked a few jojoba beans and checked to make sure that everyone was familiar with the desert plant.

Leaving the park in the hands of a new superintendent will be an easy transition, because a solid foundation is in place to guide the monument into the next century, Paleck said.•

TRIBUTE TO OLYMPIAN, CATHY O'BRIEN

• Mr. SMITH. Mr. President, I rise today to congratulate Cathy O'Brien, a resident of Durham, NH, for her outstanding performance at the 1992 summer Olympics in Barcelona. This is a tremendous accomplishment for Cathy and everyone in the Granite State is very proud of her.

Cathy, who placed 10th in the marathon, trained long and hard for Barcelona. She is 1 of 122 athletes to represent the United States this summer alongside the world's most elite athletes. The people of New Hampshire have been watching her and all of the other American athletes with great enthusiasm.

Cathy began her running career by establishing the national high school 10K record of 33:26:53 in 1983. She is five-time New Hampshire State high school cross country champion and at age 16 was the youngest competitor in the 1984 Olympic marathon trials, finishing ninth. Cathy placed first in the 1991 Los Angeles marathon, setting a

course record, and placed second in the 1992 U.S. Olympic marathon trials. We admire her skill and dedication to her sport that has made her such a champion.

As you know, the Olympics represent the pinnacle of success in an athlete's career. New Hampshire is very proud of Cathy O'Brien and her 10th place finish in the marathon. She is a great ambassador from New Hampshire and we proudly look forward to her return to the Granite State.●

FIRST ANNIVERSARY OF REESTABLISHMENT OF UKRAINIAN INDEPENDENCE

● Mr. RIEGLE. Mr. President, I rise to recognize the first anniversary of the reestablishment of an independent and unified Ukraine. Since its initial creation of January 22, 1919, this has been a dream of the Ukrainian people. From the millions living on Ukrainian soil to the millions scattered in diaspora throughout the world, the hope for a free and sovereign Ukraine has lived on in the souls of Ukrainians around the globe. Although wars, divisions, and political oppression destroyed the reality of an independent Ukraine, the dream was never extinguished.

In the wake of the dissolution of the Soviet Union, Ukraine emerged again as a free Nation. The country's long history of Communist domination has now been transformed into a unified voice for freedom. In the midst of geographic transformations around the world, Ukraine has begun to reaffirm its cultural, linguistic, and political traditions.

As in the short-lived Ukrainian republic which existed earlier this century, the strong commitment of the Ukrainian people to democracy manifested itself when free elections were held throughout the country. And even before that historic vote, it is difficult to forget the momentous day in January 1990, when hundreds of thousands of Ukrainian citizens joined hands in a human chain linking Kiev with Lviv. Spanning nearly 300 miles, the bond spoke decisively to the world of the aspirations of the newly reborn Nation.

The long-awaited official moment of independence came on August 24, 1991. On that date, the anniversary of which we celebrate this month, the Parliament in Kiev announced that Ukraine would join the family of nations as a free and sovereign republic. The historic proclamation of the Fourth Universal of 1918 had finally become reality:

> Nation of Ukraine! By virtue of your might, will, and word, there arose on Ukrainian land the free Ukrainian National Republic. The time-honored dream of your fathers, fighters for freedom, and empowerment has been fulfilled. * * * From today the Ukrainian National Republic becomes an independent, separate, free, sovereign State of the Ukrainian Nation * * *.

As Ukrainian-Americans from Kiev to Detroit gather in celebration of the first anniversary of the reestablishment of independence, they are to be saluted for their role in this victory. Hope, determination, and prayer—even from thousands of miles away—acted as an inspiration for the millions who remained in the homeland. The bond between Kiev and Lviv that was visibly portrayed in 1990 was only a small link compared to that joining of the hearts of Ukrainians across the Atlantic Ocean.

I am proud to have worked with Ukrainian-Americans from Michigan in support of a free and independent Ukraine. The State of Michigan shares their profound happiness on this first anniversary. As Ukraine enters its second year of independce, it is my hope that Ukraine will prosper as a free and democratic Nation and that its people and their proud traditions will endure.●

AVRAHAM HARMAN

● Mr. LAUTENBERG. Mr. President, I rise today to honor a great leader, visionary, and friend, Ambassador Avraham Harman. Ambassador Harman's career reflects his enormous dedication to Israel, to helping Soviet Jews, and to the pursuit of knowledge. Although he died on February 23, 1992, his rich legacy of contributions lives on for future generations.

Even though some time has passed, I want to place in the RECORD for posterity a review of his extraordinary life. He was a dear and valued friend who welcomed me to Israel in the early seventies in such a positive manner that I helped establish the Lautenberg Center for Tumor Immunology at the medical school of the Hebrew University during his presidency at that distinguished institution. A friendship developed that endured from our earliest meeting until his death.

Born in London in 1914, Ambassador Harman learned Hebrew from his father, a Hebrew language instructor. Following graduation from Oxford's Wadham College in 1935, where he received a law degree, Ambassador Harman served on the staff of the Zionist Federation in London, an organization which supported the State of Israel. In 1938, he emigrated to Jerusalem and served as an emissary to the Zionist Federation in South Africa in 1939. In 1950, he saw his dream of an independent Israel come true.

With the founding of the State of Israel, Ambassador Harman was named deputy director of the Press and Information Division of the Ministry of Foreign Affairs in 1948. In 1949, Ambassador Harman was appointed Israel's first consul general in Montreal. He joined the Israel delegation to the United Nations in New York as counselor in 1950, and headed Israel's Office of Information in the United States, a post he held for 3 years. Ambassador Harman then served as consul general in New York from 1953 to 1955.

Ambassador Harman returned to Jerusalem to become assistant director general of the Ministry of Foreign Affairs. A year later, he was elected to the Jewish Agency Executive.

From 1959 to 1968, he served as Israel's Ambassador to Washington. In this capacity, Avraham Harman successfully argued for United States military support for Israel to offset Soviet military support for neighboring Arab counties. He was closely involved in diplomatic contacts with the Johnson Administration prior to the 1967 Arab-Israeli war. After the war, he helped lay the foundation for a renewed alliance between the United States and Israel.

After leaving Washington, Ambassador Harman was elected president of Hebrew University in Jerusalem, a position he held from 1968 to 1983. During that time, he led the university through a time of significant change. He led the effort to rebuild the original campus on Mount Scopus, which had served as an Israeli garrison after the 1948 war. Avraham Harman spearheaded and passionately promoted the origination of the Rothberg School for Overseas Students, which has facilitated many academic exchange agreements with institutions around the world. Despite his extensive responsibilities as president, he was always available for faculty, staff, and students and was respected as a good listener and fair mediator.

Mr. President, Ambassador Harman's tenure as president had such an impact that Hebrew University appointed him chancellor, a position held until his recent death. In addition, in 1984, the university senate awarded Ambassador Harman an honorary doctorate "in recognition of a lifetime of devotion to Zionism and the State of Israel and in profound appreciation of his matchless contribution to the Hebrew University." The Avraham Harman Science Library on the Givat Ram campus stands today as a tribute to his years at the university.

Ambassador Harman served as president of the Israel Council for Soviet Jewry and served twice as chairman of the Council of Heads of Israeli Universities. He was awarded honorary degrees at many universities and colleges including Yeshiva University, Brandeis University, New York University, Hebrew Union College, Pepperdine University, the University of Pennsylvania, and is an honorary fellow of his college at Oxford.

Mr. President, Ambassador Harman's death is certainly a loss to the Israeli people. It is also a tremendous personal loss to his wife, Zena, his children, Naomi Chazan, Dr. Ilana Boehm, David, and his eight grandchildren.

Admired, loved, and respected by family, friends, colleagues, and stu-

dents, Avraham Harman was a special man who left a lasting mark on Israel's future and on the many people he touched through his years as a diplomat and as president of Hebrew University. I miss him.●

50TH ANNIVERSARY—FIRST SPECIAL SERVICE FORCE

● Mr. BAUCUS. Mr. President, I rise today to pay tribute to the First Special Service Force on the occasion of its 50th anniversary, and to honor these men who have served their country.

The First Special Service Force, a unique United States-Canadian unit, was under the command of West Point graduate Lt. Col. Robert T. Frederick. The elite assault unit was formed in Helena, MT, on July 20, 1942, and trained at Fort Harrison.

Volunteers for what could be a no-return mission came from all over the United States and Canada. They were formed into three 600-man regiments, a service battalion, and a small air detachment. The men, trained in all phases of demolition, weapons utilization, mountaineering, skiing, and survival skills, were intermixed without regard for national origin.

Among the Allied high command, who closely followed the progress of the training of this unique assault unit, were Harry Hopkins, adviser to President Roosevelt; Gen. George Marshall; Prime Minister Churchill; Lord Louis Montbatten, Chief of Britain's Combined Forces; and General Eisenhower, Chief of the War Department's Operations and Plans Division.

Throughout history many stories have been written about unforgettable military units. However, there has never been an outfit like the First Special Service Force.

The men came from all over the United States and Canada, but the citizens of Helena regard them as our own hometown boys and these men will receive a warm welcome.

I would like for my colleagues to join me in recognizing the First Special Service Force, World War II's famous Devil's Brigade, on this momentous occasion of their 50th anniversary.●

AIDS UPDATE

● Mr. CRANSTON. Mr. President, according to the Centers for Disease Control, as of June 30, 1992, 230,179 Americans have been diagnosed with AIDS; 150,114 Americans have died from AIDS; and 80,065 Americans are currently living with AIDS.

AIDS IN THE WORLD

Mr. President, the Harvard-based Global AIDS Policy Coalition has issued the first comprehensive report on global AIDS to be issued since the start of the pandemic. The report, called "AIDS in the World 1992," is fact-filled and it is alarming.

More than a decade after AIDS was discovered, the disease is spreading while national and international efforts against AIDS are faltering. The authors of the report call the HIV/AIDS pandemic "dynamic, volatile, and unstable." They call for governments, nongovernmental organizations, international and national institutions, and others involved in the fight against AIDS to seek a new sense of "vision, creativity and commitment" to curb the spread of this global disease.

"AIDS in the World" reaches several sobering conclusions.

First, the report points out that the magnitude of the pandemic has increased over a hundredfold since AIDS was discovered in 1981 and the spread of HIV has not been stopped in any community or country. In 1981, an estimated 100,000 persons were infected with HIV worldwide. By early 1992 at least 12.9 million people around the world were infected, about 2.6 million had developed full-blown AIDS, and 2.5 million of those have died. In the United States, at least 40,000 to 80,000 new HIV infections will have developed during 1992.

Second, the pandemic becomes more complex as it matures. Every large metropolitan area affected by the pandemic—Miami, New York, Bangkok, London, Amsterdam, Sydney, Rio—now contains several sub-epidemics of HIV going on at the same time. Women are the fastest growing group of newly infected in the industrialized world. Each week, 15,000 women contract the HIV. In 1990, the proportion of HIV infected adults who are women was 25 percent; in 1992, it is 40 percent. The epidemic continues to evolve into differing populations; in Brazil, for example, the proportion of HIV infections linked with injected drugs has increased 100 percent since the early 1980's, and in the Caribbean, heterosexual transmission has now replaced homosexual transmission as the major mode of HIV spread.

Third, the pandemic's major impacts are yet to come. Between now and 1995, the number of people developing AIDS—3.8 million—will exceed the total number who developed the disease during the entire history of the pandemic until now. The number of children orphaned by AIDS will more than double in the next 3 years, from approximately 1.8 million today to 3.7 million by 1995.

By the turn of the century 24 million adults and several million children are likely to have developed AIDS—about 10 times as many as today.●

VISIT OF ISRAELI PRIME MINISTER YITZHAK RABIN

● Mr. CRANSTON. Mr. President, I rise to welcome the Prime Minister of Israel, Mr. Yitzhak Rabin, to the United States, and to Capitol Hill today. With his visit this week, the Prime Minister has embarked upon an improved relationship with the United States. I, like many of my colleagues, am genuinely pleased that our relations have gotten back on track.

Mr. Rabin's achievements since his election on June 23, have been truly exceptional. In fact, he has instigated a sweeping reversal of policies in Israel which now hold great promise for peace in the region.

Indeed, the mere election of the former chief of staff of the Israeli Defense Forces reflects the people of Israel themselves: a strong tradition of humanity and passion, balanced by a necessary and serious caution about their security. Rabin's election has been a boost for the Israeli people.

In this election, the Israelis voted for the peace process; they voted for improved relations between our two countries; they voted for a more constructive and positive absorption process for the immigrants for whom they have so long been waiting.

Never have the prospects for an Israeli-Palestinian peace looked better. In a genuine move toward peace, the new Prime Minister, in his inauguration speech, invited leaders of other Arab countries—such as King Hussien of Jordan, President Hafez el-Assad of Syria—to meet him in Jerusalem. One week later, he took the bold step of flying to Cairo to meet with President Hosni Mubarak of Egypt. The next week, he announced not just a major scaling-down in the grand design of settlements, but also a partial settlement freeze in the disputed territories in the West Bank.

Mr. Rabin does not talk about the peace process; he has taken the more active role in calling it the making of peace.

Mr. President, this is the Israel I have always admired and supported. This is the government that the vibrant Israeli people elected to respond to the increasingly disparaging circumstances that were supporting them.

I have never supported the Republican administration's unconscionable linkage of loan guarantees for immigrant absorption to progress on the peace process. I have continuously advocated for immediate approval of $10 billion in loan guarantees to let the Israelis move forward in their challenging humanitarian task of absorbing hundreds of thousands of refugees.

Jewish immigration from Ethiopia and the U.S.S.R. to Israel had been a cornerstone of our foreign policy for over 20 years. I have always believed that as the prime advocates for freedom of emigration the United States has an obligation to help resolve the almost insurmountable problems that Israel, a tiny country of 4 million people, necessarily faces in trying to ab-

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sorb one million immigrants. If any country can meet this challenge, Israel has demonstrated that it could.

Indeed, Mr. President, it has always been my position that the United States of America should rejoice in this great victory for freedom. The United States has a moral obligation, and even an economic interest in granting those guarantees.

Now, the administration has finally realized that the loan guarantees should be extended to Israel. I am delighted that President Bush has come around. And I am optimistic that with United States backing, Israel will now be able to promote more trade with other Western countries.

These guarantees will do a great deal to advance the absorption process. They will help ignite Israel's over-burdened economy. They will go a long way to improve United States—Israel relationship. And they will help support the democratic forces in Israel which are the basis of this young nation.

There is nothing more that we, as American supporters of the State of Israel, can do to encourage the peace process. I commend Prime Minister Rabin for the courage and imagination he has exhibited thus far. I look to the future of Israel with encouragement and excitement, and am delighted that the United States will once again be a full partner in its development.●

REPORT ON PRICE INVERSIONS

● Mr. SIMON. Mr. President, on July 24 I made a statement to the Senate on a hearing the House Energy and Power Subcommittee conducted on H.R. 2966, the Petroleum Marketing Competition Enhancement Act. Evidence presented at this hearing illustrated that major oil companies are participating in predatory pricing practices. The marketer witnesses cited numerous examples of price inversions which have had devastating impacts on them and their companies.

One particular marketer described in my report was David Perry, from Beaverdam, OH, who attributed a loss of at least $100,000 in 1991 directly to the price inversions his business had to face.

Since then, I have received more than 30 reports of price inversions that have occurred throughout Ohio from late May to the present time.

In Hillsboro, OH on May 26, 1992, Marathon's retail price at refiner direct operated outlets was $1.009. The wholesale price, including taxes and freight, was $1.03.

Again in Hillsboro, OH, on July 15, 1992, Marathon was selling at refiner operated direct outlets at $0.959. The wholesale price, including taxes and freight, was $0.9735.

In Palatka, FL, on June 3, 1992, Coastal was selling at a retail price at its refiner direct operated outlets at $1.0690. The wholesale price Coastal was selling at was $1.0954.

Today the Senate Judiciary Committee is scheduled to consider legislation introduced by my friend from Arizona, Senator DECONCINI. This legislation addresses, among other things, the price inversion problem that is so prevalent all over the country.

I continue to encourage all groups who have an interest in petroleum marketing legislation to work at reaching a compromise agreeable to everyone. I believe this issue is very important. We must not lose a good chance to correct the problems that are occurring in the retail gasoline market, and that are driving independent service station dealers and petroleum marketers out of business.●

THOMAS PAINE

● Mr. SYMMS. Mr. President, our colleagues have heard me speak about the groundswell of support for Thomas Paine from educators and others nationwide.

Today, as when I introduced this legislation with 71 original cosponsors last April, I wish to share the resounding affirmations of support to honor Thomas Paine on the ground of the Capitol of the Nation he inspired.

As these letters show, Paine's message of freedom and protection of civil, religious, and property rights has friends from all parts of the political and ideological spectrum.

Congress itself represents Americans, with all of our diverse viewpoints, and as these letters attest—the perfect place to honor Paine is here at the intersection of Pennsylvania and Constitution on land the people of this Nation own.

It is time that America pay appropriate honor to our patriot already honored in France and England.

I ask unanimous consent that these letters be printed in the RECORD.

AFL–CIO,
Washington, DC, April 14, 1992.

DEAR SENATOR: The AFL–CIO strongly support S. Con. Res. 110 introduced in the Senate recently that would authorize construction of a monument to Thomas Paine in the District of Columbia. In the House H.R. 1628, introduced by Representative Nita Lowey (D–NY), also was strongly supported by the AFL–CIO.

Along with Washington, Jefferson and Lincoln, Thomas Paine left his imprint on the values that are America. He was the first to call for an end to slavery and the establishment of human rights around the world that continues to be the standard today. This legislation will provide Thomas Paine with a fitting tribute that will remind all Americans of his vast contribution to the creation of our Nation.

It is important to note that funding for the memorial will be raised from private donations without any expense to taxpayers. Also the proposed site is most appropriate, the corner of Pennsylvania and Constitution Avenues. It was, after all, in Pennsylvania that Paine was centered during his most glorious American period. And as early as 1776, in "Common Sense" he called for a written democratic constitution, despite his misgivings about some of the framers' handiwork.

Sincerely,
ROBERT M. MCGLOTTEN,
Director,
Department of Legislation.

AMERICAN ANTIQUARIAN SOCIETY,
Worcester, MA, July 8, 1992.

DEAR SENATOR KENNEDY: I write to thank you for your co-sponsorship of S. Con. Res. 110. This legislation will allow the private sector to construct a memorial to Thomas Paine on publicly owned land at the intersection of Pennsylvania and Constitution Avenues in Washington.

It is time that a memorial to this patriot be erected in the capital. Among his other contributions, Paine's political career demonstrated the extraordinary power of the printed word in shaping historical events. As you know, the American Antiquarian Society is dedicated to preserving and making accessible the printed record of the nation's past.

With thanks and best wishes,
Sincerely yours,
MARCUS A. MCCORISON,
President.

AMERICAN ANTIQUARIAN SOCIETY,
Worcester, MA, July 8, 1992.

DEAR MR. EARLY: I write to urge you to vote to support S. Con. Res. 110 when it comes before the House of Representatives. This legislation will allow the private sector to construct a memorial to Thomas Paine on publicly owned land at the intersection of Pennsylvania and Constitution Avenues in Washington.

It is time that a memorial to this patriot be erected in the capital. Among his other contributions, Paine's political career demonstrated the extraordinary power of the printed word in shaping historical events. As you know, the American Antiquarian Society is dedicated to preserving and making accessible the printed record of the nation's past.

With thanks and best wishes,
Sincerely yours,
MARCUS A. MCCORISON,
President.

THE UNIVERSITY OF ARIZONA,
Tucson, AZ, March 31, 1992.

Senator STEVE SYMMS,
U.S. Senate, Washington, DC.

DEAR SENATOR SYMMS: This letter is to register my support of proposed legislation to allow the Thomas Paine Memorial Foundation to place a memorial statue of Paine on the U.S. Capitol grounds near the intersection of Pennsylvania and Constitution avenues. That is a beautiful part of the Capitol grounds and a modest memorial to Paine there seems fitting given his role in the achievement of American independence.

Paine should have been recognized long before this. His *Common Sense* was of major significance in rousing American support for independence. While he denounced monarchy and urged the colonists to action, others debated the shape of our government to come. His ideas and stirring rhetoric helped persuade many citizens to support the revolutionary movement. His other writings, *The American Crisis* and The Rights of Man, developed his earlier ideas and added to the de-

bate over independence and the sort of government the new nation should develop. Of all the significant figures of the revolutionary era, he is probably the least well-remembered, and he certainly deserves some recognition.

Sincerely yours,

ROGER L. NICHOLS,
Acting Department Head.

ARKANSAS STATE UNIVERSITY,
State University, AR, July 2, 1992.

Senator DALE BUMPERS,
U.S. Senate, Washington, DC.

DEAR SENATOR BUMPERS: Senator Steve Symms and David Henley of the Thomas Paine Association have called my attention to the matter of S. Con. Res. 110. I urge your support and especially cosponsorship of the measure. As one who teaches American history, I am especially aware of the work Tom Paine did for liberty both in this country and abroad. Although we are in summer school and not in regular session, I know that a departmental resolution endorsing this measure would pass unanimously. We may well chose to take that step next month when we assemble. By that time I would like to hear your comments regarding this historically important, bipartisan matter.

Respectfully,

MICHAEL B. DOUGAN,
Professor of History.

BATES COLLEGE,
Lewiston, ME, July 1, 1992.

Hon. GEORGE J. MITCHELL,
U.S. Senate, Washington, DC.

DEAR SENATOR MITCHELL: I wish to bring to your attention S. Con. Res. 110 to authorize construction of a monument to honor Thomas Paine. Paine played a key role in the process leading to the American Revolution, and his contribution ought to be recognized.

I urge you to encourage the Senate Rules Committee to report the resolution and to bring it to a vote on the floor.

Thank you for your immediate attention.

Sincerely yours,

DOUGLAS I. HODGKIN,
Professor.

BOISE STATE UNIVERSITY,
Boise, ID, July 7, 1992.

Re. Senate Concurrent Res. 110

Senator STEVE SYMMS,
U.S. Senate, Washington, DC.

DEAR SENATOR SYMMS: I am pleased to add my support to the bill in question that would authorize construction of a memorial in honor of Thomas Paine. Certainly he was instrumental in motivating the American people in their struggle against Great Britain. It is surprising that nothing has been done in this regard over the years.

Sincerely,

WARREN L. VINZ,
Professor of History.

BELLARMINE COLLEGE,
Louisville, KY, June 30, 1992.

Hon. WENDELL H. FORD
U.S. Senate, Washington, DC.

DEAR SENATOR FORD: I am writing this letter to ask your support and consideration of S. Con. Res. 110. This bill would create a memorial to Thomas Paine, and such an action would be a fitting tribute to this founding father and political philosopher of our nation.

I ask that you take action on this bill before the end of the current session of Congress.

Thank you for your attention to this matter.

Sincerely,

MICHAEL G. KRUKONES,
Professor of Political Science.

UCLA,
DEPARTMENT OF HISTORY,
Los Angeles, CA, July 29, 1992.

Senator ALAN CRANSTON,
U.S. Senate, Washington, DC.

DEAR SENATOR CRANSTON: I would greatly appreciate your help in getting the Senate bill supporting the erection of a memorial statue of Thomas Paine at the intersection of Pennsylvania and Constitution Avenues reported out of the committee where it now languishes. As you know, the House has unanimously passed a supportive measure, and the Senate bill has 73 co-signers, including you. (I am very grateful that you became a co-sponsor of the bill.) The effort to give Paine the honor long due him has almost succeeded; it would be a great disappointment now to have it die with this Congress.

As a past president of the Organization of American Historians, I can assure you that Paine and his marvelous pamphlet Common Sense are two things all American students learn about. Thus, our citizenry will both appreciate and be grateful for your timely support of this project.

All good wishes.

Yours sincerely,

JOYCE APPLEBY,
Professor of History, Past President of the Organization of American Historians.

UNIVERSITY OF MONTREAL,
DEPARTMENT OF PHILOSOPHY,
Montreal, CAN, May, 5, 1991.

Hon. WILLIAM CLAY,
Chairman, Subcommittee on Libraries and Memorials, U.S. House of Representatives, Washington, DC.

SIR: I am told that bills have been introduced in the United States House of Representatives in the United States Senate authorizing the construction of a monument to Thomas Paine in Washington, D.C.

In light of Paine's enormous contributions to the United States of America and, indeed, to the world, a monument is more than appropriate. As a scholar studying XVIIIth Century philosophy, I certainly can demonstrate both the consistency and originality of Paine's contribution to moral and political theories, beginning as it did, in his great pamphlet entitled Common Sense.

Truly yours,

LOUISE MARCIL-LACOSTE,
Fellow of the Royal Society of Canada, President of the Canadian Philosophical Association.

CENTRE COLLEGE,
Danville, KY, July 30, 1992.

Senator WENDELL H. FORD,
U.S. Senate, Washington, DC.

DEAR SENATOR FORD: I write to encourage you to support S. Con. Res. 110 which proposes: "To authorize the construction of a monument on the United States Capitol Grounds to honor Thomas Paine." As you know Senator Steve Symms of Idaho introduced this bill with 71 co-sponsors on April 17, 1992. A key feature of the bill which is especially noted during a time of national economic distress states: "The United States shall not pay any expense of the establishment of the monument."

Thomas Paine was a self-made man whose stirring words in Common Sense were read by thousands of English-Americans on the eve of the American Revolution. Moreover, his Crisis papers which included the words: "These are the times that try men's souls . . . summer soldiers and sunshine patriots. . . ." inspired those who stayed the course and won the Revolution and acquired our birthright in the Treaty of Paris of 1783.

I ask you, as my senator, and as Chairman of the Senate Rules Committee, to bring this resolution to the full Committee so that you and your colleagues in the Senate and House can vote on this measure which will honor Thomas Paine and the founding of our blessed country.

Very sincerely,

CHARLES R. LEE, Jr.,
Matton Professor of History.

UNIVERSITY OF CHARLESTON,
Charleston, WA, April 9, 1992.

Hon. JOHN D. ROCKEFELLER IV,
U.S. Senate, Washington, DC.

DEAR SENATOR ROCKEFELLER: I want to add my support for a bill being introduced by Senator Steve Symms, Idaho, to erect a memorial to Thomas Paine, and to urge that you join a large number of Senators and 215 House members in co-sponsoring the bill. Both Representative Wise and Representative Rahall have signed on to co-sponsor the House Bill.

The legislation will allow the private sector to construct a modest memorial to Paine on public land at the intersection of Pennsylvania and Constitution under the supervision of the Architect of the Capitol. In these times which in their own way try men's souls. I seems appropriate, as we conclude our bicentennial celebrations, to remember Thomas Paine and the fundamental principles for which he spoke.

The West Virginia Historical Association is meeting April 10–11 in Buckhannon, and I anticipate some statement of support will come from that group, also. We all thank you for your consideration.

Sincerely,

R. EUGENE HARPER, PH.D.,
Professor of History.

THE GRADUATE SCHOOL AND
UNIVERSITY CENTER,
New York, NY, March 19, 1992.

Hon. DANIEL PATRICK MOYNIHAN,
U.S. Senate, Washington, DC.

DEAR PAT: Like every other historian, I am astonished that there is no memorial for Thomas Paine in the nation's capital; and I trust that Congress will take action in the near future to remedy this glaring omission.

Tom Paine, as you well know, was in effect an honorary Founding Father. He played a brilliant and vital role in awakening popular support for independence and thereafter in propagating the rights of man as a universal doctrine; and he deserves to be remembered by an age whose great animating forces are national independence and human rights.

The proposed site, which I understand to be on the Capitol grounds at the intersection of Pennsylvania and Constitution Avenues, seems eminently appropriate. After all, Paine wrote Common Sense while living in Pennsylvania, and the Constitution can be considered one of the fruits of his work.

As the preeminent scholar in the Senate, you are a natural to lead the fight to educate a new generation about Paine. The historical community hopes very much that you will join in co-sponsoring the Symms bill.

Yours ever,

ARTHUR SCHLESINGER, Jr.

DEMOCRATS,
Seattle, WA, March 21, 1992.

Hon. BROCK ADAMS,
U.S. Senate, Washington, DC.

DEAR SENATOR ADAMS: I have recently discovered that Thomas Paine, one of our nation's first leaders to fight for equal rights for ALL Americans, has not been memorialized in our nation's capitol.

As a Democrat who believes as you do in justice and equality, I feel a grave error has been made in not properly recognizing Thomas Paine—the first public advocate for the abolition of slavery, the author of Common Sense, and a strong supporter of women and their rights.

I have discussed this matter with other members of the King County Democratic Central Committee and we would like to urge you to co-sponsor legislation by Senator Steve Symms (R-Idaho) that would allow for the construction of a modest, but long overdue, statue of Paine at the intersection of Pennsylvania and Constitution Avenues. The proposed memorial will be built with voluntary contributions at no cost to the tax-payer.

As a member of the Rules Committee, and especially as someone who has fought for the same freedoms as Thomas Paine, I am confident you will see the necessity in supporting this legislation.

Thank you for your consideration.

Sincerely,

HEATHER C. HAMILL,
Administrative Assistant,
King County Democrats.

MARCH 23, 1992.

Hon. STEVE SYMMS,
Hart Building, Washington, DC.

DEAR SENATOR SYMMS: I am pleased to learn that you are sponsoring legislation designed to authorize the construction of a memorial for Thomas Paine on the Capitol grounds at no cost to the American taxpayer.

Mr. Paine was a brave and vital figure in the drive for American independence, and it is appropriate that his memory be honored with such a memorial. Your effort has my strong support, and I wish you success with it.

All best wishes.

Sincerely,

THOMAS H. KEAN,
President, Drew University,
Former Governor, New Jersey.

EASTERN KENTUCKY UNIVERSITY,
Richmond, KY, April 7, 1992.

Hon. WENDELL FORD,
U.S. Senate,
Washington, DC.

DEAR SENATOR FORD: The Department of History of Eastern Kentucky University endorses the legislation being introduced by Senator Steve Symms of Idaho to erect an appropriate statue to honor Thomas Paine at the intersection of Pennsylvania and Constitution Avenues in Washington, D.C. We urge your support of the proposed legislation in the Senate Rules Committee and on the floor of the Senate. We ask that you co-sponsor the legislation.

It is our understanding that similar legislation has been introduced in the House of Representatives and that it has over 220 cosponsors. It is also our understanding that the cost of the memorial will be met by voluntary contributions.

In our view, it is only fitting that, due to his important role in the American Revolution, Thomas Paine should be memorialized in the capital.

Thank you.

Sincerely yours,

DAVID S. SEFTON,
Professor and Chair.

GEORGE WASHINGTON UNIVERSITY,
Washington, DC, August 6, 1992.

Hon. STEVE SYMMS,
U.S. Senate, Washington, DC.

DEAR SENATOR SYMMS: Your letter of June 19, 1992 was waiting for me when I returned to my office this week after a brief absence. I am sorry for the little delay in responding to it, for as I said to Mr. David Henley of the Thomas Paine Association in a telephone conversation this past Spring, your proposal to allow private donors to erect a memorial in honor of Thomas Paine has my wholehearted endorsement. I would be pleased to have my name associated with your project.

There can be no doubt that Thomas Paine deserves the recognition that you envision because of his part in establishing our nation. He well exemplifies an important perspective in the political ideology of the late eighteenth century. He cared deeply about the "people" broadly defined and argued forthrightly against monarchical and aristocratic forms of government. His radical writings are an important part of the American political and intellectual tradition.

I do hope that your S. Con. Res. 110 will win passage. To assist however modestly in that endeavor, I am sending copies of this letter to my own Congresspersons and to other key persons in Congress associated with the Resolution and mentioned in your letter.

With best wishes.

Sincerely,

LOIS G. SCHWOERER,
Kayser Professor of History.

MARIO M. CUOMO,
GOVERNOR, STATE OF NEW YORK,
Albany, NY, March 16, 1992.

Hon. PATRICK DANIEL MOYNIHAN,
U.S. Senate, Russell Senate Office Building, Washington, DC.

DEAR PAT: I am writing to express my strong support for proposed legislation to authorize construction of a monument to Thomas Paine in the District of Columbia.

Along with Washington, Jefferson and Lincoln, Thomas Paine left his imprint on the values that are America. The first to call for an end to slavery and a declaration of independence, Paine shared a vision of freedom and human rights with the world that continues to be the standard today.

Senate legislation similar to that sponsored by Nita Lowey in the House of Representatives will provide Thomas Paine with a fitting tribute that will remind all Americans of his vast contribution to the creation of our country.

Sincerely,

MARIO.

HARVARD UNIVERSITY,
DEPARTMENT OF HISTORY,
Cambridge, MA, July 1, 1992.

Hon. EDWARD M. KENNEDY,
Senate Office Building, Washington, DC.

DEAR SENATOR KENNEDY: I write to register my support for S. Con. Res. 110 allowing the private sector to construct a memorial honoring Thomas Paine. Paine made a significant contribution to the establishment of American independence, and the plans of the Thomas Paine National Historical Association of New Rochelle, New York to finance, design, and construct such a memorial seems to me to be worth supporting.

I write this for myself and not for the Harvard History Department, whose views I have not canvassed, nor for Harvard University.

Sincerely,

BERNARD BAILYN,
Adams University Professor.

THE HISTORIAN,
ARIZONA STATE UNIVERSITY,
Tempe, AZ, March 31, 1992.

Senator DENNIS D. DECONCINI,
U.S. Senate, Washington, DC.

DEAR SENATOR DECONCINI: This letter is to endorse Senator Symms' proposal to erect a statue memorializing Thomas Paine in Washington, D.C., to be paid for by private subscription.

As editor of the scholarly history journal with the largest number of individual subscribers in the world today, with editorial offices at Arizona State University, I believe this historical recognition is meritorious.

This message will be conveyed to you by the hand of Trevor Norris, assistant to Senator Symms.

With best wishes to you in your current deliberations, I am,

Yours sincerely,

ROGER ADELSON,
Editor.

HOOVER INSTITUTION,
ON WAR, REVOLUTION AND PEACE,
Stanford, CA, July 10, 1992.

Hon. JOHN SEYMOUR,
U.S. Senate, Washington, DC.

DEAR SENATOR SEYMOUR: I am pleased to note that you are a co-sponsor of S. Con. Res. 110—the resolution authorizing construction of a memorial honoring Thomas Paine on the grounds of the U.S. Capitol—and I join the many supporters of this proposal in recommending favorable and prompt Congressional action.

Thomas Paine gave eloquent voice at the very outset of our national experience to ideas which helped define America, and which ever since have influenced the course of our history. Beyond this, his practical contributions to the cause of American independence were incalculably important. It is indeed fitting that we remember him appropriately on Capitol Hill.

Sincerely yours,

JOHN RAISIAN,
Director.

UNIVERSITY OF HOUSTON,
OFFICE OF THE PRESIDENT,
Houston, TX, August 6, 1992.

Hon. STEVE SYMMS,
U.S. Senate, Hart Senate Office Building, Washington, DC.

DEAR SENATOR SYMMS: Shortly after Thomas Paine anonymously published his influential and history-making pamphlet Common Sense, a newspaper writer in South Carolina wrote: "Who is the author of Common Sense? I can scarce refrain from adoring him. He deserves a statue of gold."

Sadly enough, 216 years later, Thomas Paine is remembered in our nation's capital not with a statue of gold, but with no statue at all. This Englishman turned revolutionist, who displayed the innate ability to coalesce the varied divergent, political, social and economic groupings of Colonial America into the vibrant whole so needed in any revolutionary undertaking, deserves our recognition and ever-lasting gratitude.

That is why I most wholeheartedly support your resolution endorsing the idea of erecting a statue to Thomas Paine's memory, to

be built with private funds, and to be installed near the U.S. Capitol, a structure that embodies, more than any other political institution in this country, the ideals for which he fought.

Shortly after Paine's death in 1809, artist John Wesley Jarvis published a cartoon of Paine lying in state, with the caption: "A man who devoted his whole life to the attainment of two objects—rights of man and freedom of conscience—had his vote denied when living, and was denied a grave when dead." Let's not perpetuate the injustice. Let's build a statue to this patriot, who just at the right moment, and with the right words, inspired our revolutionary armies to victory at many a crucial juncture during our war of independence.

Sincerely,

JAMES H. PICKERING,
President.

HOWARD UNIVERSITY,
COLLEGE OF ARTS AND SCIENCES,
Washington, DC, August 10, 1992.

Hon. STEVE SYMMS,
Senate, Washington, DC.

DEAR MR. SYMMS: I take pleasure in endorsing your proposal, expressed in S.Con.Res. 110, authorizing private donors to erect a memorial in honor of Thomas Paine on public land at the intersection of Pennsylvania and Constitution avenues. Paine richly deserves such recognition.

For the past twenty years, there has been growing scholarly and public interest in understanding the Revolutionary generation in its entirety. This quest emphasizes a more democratic understanding of the nation's past. It places heavy emphasis upon the role of ordinary citizens—women as well as men, and African Americans and Native Americans as well as European Americans—in the events that resulted in the birth of the United States of America.

Paine is an important figure in this effort. He was a man of ordinary background who spoke to the ages. A memorial to him in the nation's capital is overdue.

Please keep me informed about the progress of this important undertaking.

Sincerely,

JOSEPH P. REIDY,
Associate Professor.

UNIVERSITY OF ILLINOIS
AT URBANA-CHAMPAIGN,
Urbana, IL, July 7, 1992.

Hon. PAUL SIMON,
U.S. Senate, Dirksen Senate Office Building, Washington, DC.

DEAR SENATOR SIMON: I find myself in the unusual position of agreeing with Senator Steve Symms of Idaho! Please support S.Con.Res. 110 to erect the monument for Tom Paine.

Best wishes,

JAMES R. BARRETT,
Professor and University Scholar.

IRISH NATIONAL CAUCUS, INC.,
July 1, 1992.

Hon. STEVE SYMMS,
U.S. Senate, Washington, DC.

DEAR SENATOR SYMMS, AND ALL 99 OTHERS: On behalf of its many members in your State, the Irish National Caucus urges you to push for the immediate consideration of S. Con. Res. 110—the Thomas Paine Memorial legislation.

The Concurrent Resolution was introduced by Senator Steve Symms (R-ID) with 71 original co-sponsors. It would allow a modest memorial to be built on public land at no cost to the taxpayer (contact Trevor Norris at 4-6142 for more information).

To date there are 73 co-sponsors, yet the bill could die in the Senate Rules Committee unless you urge the chairman to allow it to be reported in time for the House to act on it.

Not only was Thomas Paine a great advocate of American freedom, liberty and democracy, but he also championed the same causes for Ireland. That is why we are in total support of S. Con. Res. 110.

Can we tell our members they can count on your following through with your co-sponsorship and pressing the committee and the Senate for passage? Please let us know at your earliest convenience.

Sincerely,

FATHER SEÁN MCMANUS,
President.

KENTUCKY HISTORIAN LAUREATE FOR
LIFE, UNIVERSITY OF KENTUCKY,
INDIANA UNIVERSITY,
April 10, 1992.

Sen. STEVEN D. SYMMS,
Senate Hart Bldg, Washington, DC.

DEAR SENATOR SYMMS: I heartily endorse the erection of the Monument to Thomas Paine. If there's any American of the early national period who deserves special recognition it is Thomas Paine. I need not go into detail about common sense in the crises. These publications of Thomas Paine are too well known to be described in this brief communication. I would like to speak with emphasis of Thomas Paine's role in the creation of the Independent Commonwealth of Kentucky. The public good was a veritable bombshell at the very outset of the lengthy discussion of the separation of the West District of Virginia and creation of Kentucky. This was one of the important bits of political yeast which spurred on the movement for separation of Kentucky from Virginia. I have only to tell you that the experience of the separation of Kentucky and creation of the first independent Western State was to have a tremendous impact on the spread of statehood across the continent.

Again I can hardly see how The U.S. Senate would fail to place a reminder of this man who has such a broad seminal bearing on both the Republic and the States. I endorse without reservation the memorialization of Thomas Paine.

Sincerely,

THOMAS D. CLARK,
Professor Emeritus.

KENTUCKY HISTORICAL SOCIETY,
FRANKFORT, KY,
July 1, 1992.

Hon. MITCH MCCONNELL,
U.S. Senate, Washington, DC.

DEAR SENATOR MCCONNELL: It is my understanding that a group of private citizens hopes to erect in the nation's capital a monument in honor of Thomas Paine. On behalf of the members and staff of the Kentucky Historical Society, I should like to express our support for such a project.

Americans of every generation need to remember the sacrifices of the men and women who risked their lives and fortunes in the quest for our country's independence. Paine certainly stands at the forefront of those early patriots.

It is indeed surprising that no monument to Paine is currently in place in Washington. We therefore applaud the efforts of the Thomas Paine National Historical Organization to redress that historical oversight.

Sincerely,

JAMES C. KLOTTER,
Director and State Historian.

UNIVERSITY OF KENTUCKY,
July 2, 1992.

Sen. WENDELL FORD,
U.S. Senate, Washington, DC.

DEAR SEN. FORD: We write to strongly urge you to support S. Con. Res 110 endorsing the erection of a memorial statute in honor of Thomas Paine. As you know, the bill has the support of nearly three fourths of your Senate colleagues along with 100s of historians, historical associations, and concerned citizens across the nation. It is also of great symbolic significance for Kentuckians. As our colleague Thomas D. Clark has already indicated to you, Thomas Paine's unflinching support for American independence helped inspire Kentuckians to create their own independent state 200 years ago. How appropriate, then, in celebrating our state's bicentennial that we should honor one of the leading voices for freedom ever to be heard in this country.

Clearly, then, this bill deserves a vote. Any further delay, as you well know, will kill it. I hope that you would want your Congressional colleagues to vote on this important bill before the legislative year comes to an end.

Thanks for your attention to this matter.

Sincerely yours,

DANIEL BLAKE SMITH,
Associate Professor of History
LANCE BANNING, *Professor of History*
GEORGE HERRING, *Chair, Department of History.*
UNIVERSITY OF KENTUCKY,
July 1, 1992.

Sen. WENDELL FORD,
U.S. Senate Office Bldg., Washington, DC.

DEAR SENATOR FORD: I write to urge you to support the bill sponsored by Senator Symms of Idaho (and co-sponsored by numerous other senators) permitting the erection of a memorial to Tom Paine at Constitution and Pennsylvania Aves. If you cannot sign on to this bill, I ask that in your capacity as chairman of the Senate Rules Committee, you allow the bill to go to the floor in the near future so that it can be voted upon this summer.

I don't imagine I need to tell you much about Tom Paine's contributions to the success of the American Revolution. I would like to say, however, that his *Common Sense* and *The Crisis*, especially the exhortation to be more than a "sunshine patriot," contributed greatly to the people's understanding of and support for the American cause. Victor Hugo said that the pen is mightier than the sword and Paine's pamphlets illustrate this truth; they were as an important factor in the Revolution's success as was battlefield heroism at Saratoga or Trenton. I was surprised to learn that there is no monument to Tom Paine in Washington which, as you know, is a city full of monuments.

I hope you can help out here.

Sincerly,

BRADLEY C. CANON,
Professor and Acting Chair.

THE UNIVERSITY OF KENTUCKY,
June 30, 1992.

Sen. WENDELL H. FORD,
U.S. Senate, Washington, DC.

DEAR WENDELL: Could you tell us why *S. Con. Res. 110* is hung up in the Rules Committee? We cannot imagine anything less controversial than finally honoring *Thomas Paine* with a statue near the Capitol. We are always suspicious when somebody in Washington claims to have a good idea at no cost

to the taxpayer, but it looked like a legitimate claim in this case. It's a scandal that this great national hero, the first authentic blue-collar philosopher of the American Revolution, has not been honored with a prominent statue already.

If Teddy Kennedy and Jesse Helms are both supporting something, it can't be all bad. But the list of sponsors and supporters for S. Con. Res. 110 reads like a *Who's Who* of the American establishment. Or, putting it in Kentucky terms, could you be against it if Tom Clark is for it? Could you be against apple pie? This resolution needs to be reported out of Rules and favorably voted on the Senate floor before the August recess. Again, what's the hold-up?

Thanks for your attention to this least-controversial matter. Some people say that one problem with America these days is that we don't have any heroes anymore. But maybe the real problem is that we do not sufficiently recognize and honor the ones we do in fact have. You can help.

Very respectfully,

VINCENT DAVIS, *Director and Patterson Professor.*
JOHN D. STEMPEL, *Associate Director and Professor.*

May 30, 1992.

Hon. WENDELL FORD,
U.S. Senator from Kentucky, Washington, DC.

DEAR SENATOR FORD: The Tom Paine Society wishes to erect a statue to Thomas Paine at the juncture of Pennsylvania and Constitution Avenues. It is my understanding that the Congress guards this spot and the capitol grounds with highly justifiable jealousy. In the case of Tom Paine the Republic has a long overdue indebtedness. In the course of history a few radical or foresightful ideas have made a vast difference in the turn of events. This was true in the writings and ideas of Tom Paine.

I strongly feel that the United States Senate should make an extraordinary concession in this case. I do so on these grounds: (1), Tom Paine favored immediate independence from Britain in 1776, arguing that the continent should not be ruled by an island; (2), he argued for a written constitution; (3), he supported and projected the concept of a strong federal government; and (4), he supported the strong central power over the state of particularism.

No historian can fully assess the impact of Paine's Common Sense in helping to shape the course of political and republican affairs in the seminal years of separation of the colonies from British control. For this reason alone Tom Paine merits special attention at this moment in American history by the United States Senate.

In a particular way Kentuckians owe a debt to Tom Paine. His *Public Good* was a definite force in shaping events which led to the separation of the western counties from Virginia and the creation of the independent Commonwealth of Kentucky. You, as Kentucky's Senior United States Senator, have a wonderful opportunity in this our bicentennial year to give further recognition to the author of Common Sense and The Public Good.

Cordially yours,

THOMAS D. CLARK,
Prof. Emeritus, Univ. KY.

[From "Public Good"]
(By Thomas Paine)

THE PREFACE

The following pages are on a subject hitherto little understood, but highly interesting to the United States.

They contain an investigation of the claims of Virginia to the vacant western territory, and of the right of the United States to the same; with some outlines of a plan for laying our a new rate, to be applied as a fund, for carrying on the war, or redeeming the national debt.

The reader, in the course of the publication, will find it seriously plain, and, as far as I can judge, perfectly candid. What materials I could get at I have endeavored to place in a clear line, and deduce such arguments therefrom as the subject required. In the prosecution of it, I have considered myself as an advocate for the right of the states, and taken no other liberty with the subject than what a counsel would, and ought to do in behalf of a client.

I freely confess that the respect I had conceived, and still preserve, for the character of Virginia, was a constant check upon those follies of imagination, which are fairly and advantageously indulged against an enemy, but ungenerous when against a friend.

If there is anything I have omitted or mistaken, to the injury of the intentions of Virginia or her claims, I shall gladly rectify it; or if there is anything yet to add, should the subject require it, I shall as cheerfully undertake it; being fully convinced, that to have matters fairly discussed, and properly understood, is a principal means of preserving harmony and perpetuating friendship—The Author.

"Public Good" was somewhat slow, for obvious reasons, in reaching the western country, or, specifically Kentucky. When it did it started three or four commotions. The first was to stimulate an incipient idea of separation of the western district from Virginia. The second was to raise a highly disturbing question of the validity of land titles granted to date by Virginia. Paine argued with convincing force that the Kentucky and western settlers in general had moved well beyond the authoritative reach of Virginia, and soon they and the mother state would find themselves in conflict; the one as oppressor and the other as revolter.

Economically it was argued that Virginia collected little taxes from the transmontane settlers, but the region opened the possibility of being profitable to the older and more productive state. In the Kentucky settlements some persons regarded the Public Good as a dangerous and voluntary tract. Some of the major landholders looked upon it as threatening their landholdings and petitioned Virginia on the subject. Perhaps it did not actually engender panic, but there was indeed concern. This proved especially true in 1784 when the agitators Galloway and Pomeroy appeared in Lexington and Louisville spreading the rumor that Virginia did not possess the western country and that all of its official acts would be nullified by the authority of Congress. This of course meant the invalidation of land deeds. The agitators were fined fairly large amounts of tobacco which they could not deliver, and both of them were forced to leave the country.

Tom Paine's pamphlet preached no doctrine of nullification of deeds, only the nullification of Virginia's wide blanket claim to western lands, and it set forth striking argument for a rather large new state. Whatever may have been the influence of the Public Good, pro or con, it did plant at least one powerful germ in the westerners' minds concerning separation from Virginia and the formation of the new State of Kentucky. Within limitations the pamphlet meant for the West what Common Sense had meant for the protesting colonial system's argument with King and Crown.—Thomas D. Clark, Ph.D., Lexington, Kentucky, October, 1975.

UNIVERSITY OF LONDON,
Egham, Surrey, England, July 8, 1992.

DEAR SENATOR BOND: As a Missouri resident temporarily overseas, I am writing to you about legislation for the proposed memorial to Thomas Paine. Senate Con. Res. 110, which Senator Steve Symms is co-sponsoring, proposes to erect a memorial to Paine on land already owned by the people of the United States. I urge you to support Senator Symms in this measure, which does great credit to one of the most important writers on the side of American independence in the late eighteenth century.

Thomas Paine's Common Sense (1776), as you may know, was the main pamphlet to rouse the colonists on the side of independence. Paine became close friends with Washington, Jefferson and other founding fathers. He fought during the Revolutionary War, when his letters known as The American Crisis had a tremendous effect in rallying the colonial army. Paine was one of independent America's first advocates for the abolition of slavery and for equal rights for women and men alike. Moreover, he was the most important popularizer of the American constitutional model in nineteenth century Europe, through the Rights of Man.

Despite these great contributions to America's heritage, Paine has lacked the recognition he deserves. I urge you to support Senator Symms' efforts to have a monument to Paine erected in the grounds of the Capitol. There are statues of him already in both England and France, and it is time that we too acknowledged his efforts on our behalf.

Yours sincerely,

GREGORY CLAEYS.

LANDER COLLEGE,
Greenwood, SC, April 8, 1992.

Senator STROM THURMOND,
U.S. Senate, Washington, DC.

DEAR SENATOR THURMOND: Having recently learned of Sen. Steve Symms' plans to introduce legislation to allow the construction of a modest memorial to Thomas Paine, I am writing to urge you to support Senator Symms' proposal.

While the founding fathers are well represented in statutory and memorials in our nation's capitol, no recognition has ever been accorded Paine, who, in my view, was the moving force behind the drive for independence and establishment of a republication form of government. Such recognition is long overdue, and I applaud the efforts now underway to construct an appropriate memorial on the publicly-owned land at the intersection of Pennsylvania and Constititon Avenues. It is my understanding that the memorial would be paid for with voluntary contributions.

I have devoted a considerable portion of my adult life to the study of early American history and literature—and to Thomas Paine in particular—and I assure you that such a memorial to this great patriot is both fitting and proper.

Sincerely yours,

JEROME D. WILSON, PH. D.
Professor of English.

LANDER COLLEGE,
Greenwood, SC, April 8, 1992.

Senator STEVE SYMMS,
U.S. Senate, Washington, DC.

DEAR SENATOR SYMMS: Here are the letters of support, which I understand you will have

hand delivered to Senators Hollings and Thurmond.

Your support of the effort to establish a memorial to Paine is indeed deserving of support. Should I be able to render any other assistance, please do not hesitate to call or write.

Sincerely yours,

JEROME D. WILSON, PH.D.
Professor of English.

UNIVERSITY OF MAINE,
Orono, ME, April 15, 1992.

Senator STEVE SYMMS,
U.S. Senate, Senate Hart Building, Washington, DC.

DEAR SENATOR SYMMS: I am delighted to have an opportunity to endorse the building of a memorial to Thomas Paine. The site on Capitol grounds at the intersection of Pennsylvania and Constitution Avenues seems ideal.

This semester, I have been teaching a senior seminar in the American Revolution, which is my specialty. Once again, I have tried to impress on my students Paine's crucial significance in articulating first the reasons why the American colonies ought to resist England's tyranny and then his importance in mobilizing support for the war. It is not an exaggeration to argue that without Paine American independence would have been delayed.

It is a shame that for 200 years Paine has not been honored in our nation's capitol.

Sincerely,

JEROME NADELHAFT,
Professor and Chair, Department of History.

MARSHALL UNIVERSITY,
Huntington, WV, April 2, 1992.

Senator STEVE SYMMS,
U.S. Senate, Washington, DC.

DEAR SENATOR SYMMS: Please accept this letter as a strong endorsement of your proposed legislation to authorize the placement of a statue of Thomas Paine on the Capitol grounds at the intersection of Pennsylvania and Constitution Avenues.

As you know, Paine played an extremely significant and heretofore unheralded role in the coming of the American Revolution. No single individual did more than he in sparking an independence movement. His own generation ultimately rejected him. We today now have the opportunity to honor and commemorate a truly major actor in a defining moment of our history.

Sincerely,

DONNA J. SPINDEL,
Chair.

UNIVERSITY OF MARYLAND,
College Park, MD, July 14, 1992.

Hon. PAUL SARBANES,
U.S. Senator, Washington, DC.

DEAR SENATOR SARBANES: Senator Steve Symms has asked that I write you in support of S. Con. Res. 110, which allows private funds to be used to construct a modest memorial honoring Tom Paine on publically-owned land controlled by Congress.

As a professor of political science and political thought, I am aware of the contribution Tom Paine has made to republican thought. While his Rights of Man and Common Sense are most well known, I am particularly fond of a little story of his about Cupid and Hymen. It seems that young woman was faced with the choice of two suitors, a young man of modest means whom she loved, and an older wealthier man. The young woman is, of course, America. The young man represents the promise, risks and joys of independence, the old man the security of a continued colonial relationship to England. Cupid is enraged that Hymen, the god of marriage, would intervene in his place, and so substitute security and wealth for romance. Not just the romance of young lovers, but the romance of building a virtuous and free nation.

I believe that the United States today is faced with a similar choice. Shall we go forward in familiar ways, or shall our nation take a chance and try to become a truly excellent nation, a nation of virtue, which to republicans like Paine meant a nation in which the common good comes first. I can't think of a more appropriate way to begin to think about this than a memorial to Tom Paine.

Please make every effort you can to make sure that S. Con. Res. 110 is reported out of the Rules Committee, and that the Senate votes favorably on it.

And please do not hesitate to write me if I can be of any help to you.

Sincerely,

C. FRED ALFORD,
Professor of Government.

MARY WASHINGTON COLLEGE,
June 29, 1992.

Senator STEVE SYMMS,
U.S. Senate, Washington, DC.

DEAR SENATOR SYMMS: In response to your recent letter regarding Senate Concurrent Resolution 110, the Department of History and American Studies has chosen me to respond. I am the departmental specialist on the American Revolution. I applaud this resolution. It's high time that Thomas Paine receives some recognition and recompense for two centuries of slander or being ignored.

Enclosed please find a copy of a letter typical of those I sent to our Senators and local member of the House of Representatives.

Thank you.

Sincerely,

ROGER J. BOURDON,
Professor.

MARY WASHINGTON COLLEGE,
June 29, 1992.

Senator JOHN A. WARNER,
U.S. Senate, Washington, DC.

DEAR SENATOR WARNER: I want to congratulate you on being a co-sponsor of Senate Concurrent Resolution 110 regarding the erection of a memorial for Thomas Paine in Washington. For many years, I have believed that Thomas Paine deserves more recognition than he currently receives. As a professor of Early American History, I include discussion of Paine, his activities and his writings in my various graduate and undergraduate courses on the American Revolution. The proposed memorial should serve as a partial repayment to Thomas Paine for the many slanders he has suffered over the two centuries.

Please let me know when this bill passes the Senate.

Thank you.

Yours truly,

ROGER J. BOURDON,
Professor.

ASSEMBLY RESOLUTION No. 66,
STATE OF NEW JERSEY, INTRODUCED APRIL 30, 1992

An Assembly resolution calling on the Congress of the United States to allow certain private interests to construct a modest memorial to the patriot Thomas Paine at a fitting location on the grounds of the U.S. Capitol Building.

Whereas the great American patriot Thomas Paine emigrated from his native England at the urging of Benjamin Franklin and lived in Pennsylvania and New York; and

Whereas [Paine's pamphlets "Common Sense" and "The American Crisis," which were] Thomas Paine authored the "American Crisis Pamphlets" and the work called "Common Sense," which was published in 1776 and called for American independence and limits on a government's authority, received wide public distribution at the time and [help] helped to galvanize colonial discontent into action against Great Britain; and

Whereas the ideas expressed by Paine in these and other works were incorporated in the Declaration of Independence, and subsequently, the United States Constitution; and

Whereas Paine made the first published call for a written constitution to protect the rights of property owners and for the free exercise of religious beliefs; and

Whereas Paine donated his services and finances to the cause of American independence and put his life in jeopardy for this cause; and

Whereas Paine is rightly honored in New Jersey, France and England for his advocacy of the causes of personal liberty, limited government and industry; and

Whereas it is fitting and proper that a permanent national monument be constructed in Thomas Paine's honor near the seat of the government he helped to create; now, therefore,

Be it *Resolved* by the General Assembly of the State of New Jersey:

1. This House calls on the Congress of the United States to allow certain private interests to construct, at no cost to the taxpayer, a modest memorial to the patriot Thomas Paine at a fitting location on the grounds of the U.S. Capitol Building.

2. Duly authenticated copies of this resolution, signed by the Speaker of the General Assembly and attested by the Clerk thereof, shall be sent to the presiding officers of each House of Congress and each member of Congress from New Jersey.

UNIVERSITY OF NOTRE DAME,
Notre Dame, IN, June 26, 1992.

Senator DAN COATS,
U.S. Senate, Washington, DC.

DEAR SENATOR COATS: I am writing to express my support for the resolution introduced by Senator Steve Symms (S. Conc. Res. 110) that would allow the private sector to construct a memorial honoring Thomas Paine on publicly-owned land at the intersection of Pennsylvania and Constitution Avenues.

As a historian of France, I am particularly pleased to support his resolution, since Paine played such an important role in promoting democratic change in both France and the United States. I urge to support this resolution that would result in a public memorial in honor of Thomas Paine.

Sincerely,

THOMAS KSELMAN,
Chair.

PRESIDENTIAL PERFORMANCE STUDY,
PENN STATE BERKS CAMPUS,
Reading, PA, May 7, 1992.

Senator STEVE SYMMS,
U.S. Senate, Washington, DC.

DEAR SENATOR: I strongly support the legislation proposed by Senator Symms to authorize a memorial to Thomas Paine to be erected on Capitol grounds at Pennsylvania and Constitution Avenues. Paine was a cru-

cial figure in the American and French Revolutions, and had great influence within Britain.

We should acknowledge Paine's legacy and his role in the development of an ideology of freedom.

Sincerely,

TIM H. BLESSING,
Assistant Professor, History;
Director, Presidential Performance Study.

PENN STATE UNIVERSITY,
University Park, PA, June 26, 1992.

Hon. HARRIS WOFFORD,
U.S. Senate, Washington, DC.

DEAR SENATOR WOFFORD: Please add my name to the long list of supporters of S. Con. Res. 110, the bill that we hope will result in the construction with private funds of a monument of the Capitol grounds in honor of Tom Paine.

As an historian whose field of specialization is the early American period, I am especially aware of Tom Paine's significance. Arriving in America in 1774, he promptly became an advocate of independence from Great Britain. His tract, "Common Sense," published first in January, 1776, and reprinted until over 100,000 copies were in circulation, emphasized that it was "time to part" and, no doubt, persuaded thousands of colonists to participate in the revolt. His serial publication, "The Crisis" papers in which he criticized the "summer soldier and the sunshine patriot," helped to maintain support for the revolution during its darkest hours—what Paine called "the times that try men's souls * * *" Less well known are Tom Paine's efforts to broaden participation in American society. He was partially responsible for Pennsylvania's comparatively democratic Constitution of 1776 that several other states subsequently copied and was a vigorous opponent of holding African Americans in slavery.

It is difficult to believe that there is no monument to Tom Paine in the nation's capitol. His importance in the founding of our country requires that he be recognized with an appropriate memorial. As one of your constituents, I appreciate the support that you have given to this project. I hope that you will persevere and bring it to completion.

Sincerely yours,

JOHN B. FRANTZ,
Associate Professor of American History.

PENN STATE UNIVERSITY,
University Park, PA, July 2, 1992.

Hon. STEVE SYMMS,
U.S. Senate, Washington, DC.

DEAR SENATOR SYMMS: Thank you for your letter of June 18. I was honored to be asked to participate in urging the Congress to permit the construction of a memorial to Tom Paine on the capitol grounds.

You will find enclosed copies of my letters to Representative William F. Clinger and Senators Harris Wofford and Arlen Specter. I hope that you and they will be able to bring this project to a successful conclusion.

You are to be commended for your attention to Tom Paine in light of your many other responsibilities. As you know, he was an important figure in the early period of our nation's history. He deserves to be recognized for his efforts, many of the results of which we continue to enjoy.

Sincerely yours,

John B. Frantz.

RHODE ISLAND COLLEGE,
Providence, RI, July 14, 1992.

Hon. JOHN H. CHAFEE,
U.S. Senate, Washington, DC.

DEAR SENATOR CHAFEE: Speaking for the faculty of Rhode Island College, I write to urge your support for S. Con. Res. 110, to allow the Thomas Paine National Historical Association to construct a memorial in Paine's honor. Further, I fear that any delay in consideration of S. Con. Res. 110, or its adoption without a firm construction schedule, could doom this most worthy of projects.

Sincerely,

RICHARD R. WEINER (PH.D., COLUMBIA),
Dean of the Faculty of Arts and Sciences and
Professor of Political Science.

UNIVERSITY OF RICHMOND,
Richmond, VA, June 29, 1992.

Hon. STEVE SYMMS,
U.S. Senate, Washington, DC.

DEAR SENATOR SYMMS: Professor John L. Gordon, Chair, has referred your letter of June 18, 1992 to me.

You are to be commended in your efforts on behalf of the Paine memorial.

Please find enclosed copies of letters sent to Senators Robb and Warner and Congressman Bliley.

Here's wishing success with the Paine project.

Sincerely,

HARRY M. WARD,
Professor of History (and author of
books on the American Revolution).

UNIVERSITY OF RICHMOND,
Richmond, VA, June 29, 1992.

Hon. JOHN WARNER,
U.S. Senate, Washington, DC.

DEAR SENATOR WARNER: I am writing in support of S. Con. Res. 110 that allows construction of a Thomas Paine memorial at the intersection of Pennsylvania and Constitution Avenues.

This is a most worthy project:

1. Paine championed individual liberty, not just national liberty (as too often the "Spirit of '76" of the American Revolution is construed). The memorial would indicate commitment to the "rights of man" and, specifically, to the rights of Americans in a free society.

2. Paine probably contributed more so than anyone else (even with John Adams included) to the initial discussions on need for republican government.

3. Paine's writings and his own service for a while as soldier exemplifies an unstinting patriotism to the cause of American Liberty.

4. And, of course, his "Common Sense" so persuasively argued Independence, and the "Crisis Papers" gave heart to Americans to persevere in the time of despair.

If we are to have monuments, I can think of none better for the recognition of the spirit of freedom in America than one to Thomas Paine, located prominently in the nation's capital.

Sincerely,

HARRY M. WARD,
Professor of History.

RUE ROYAL INN,
New Orleans, LA, August 5, 1992.

DEAR SENATOR JOHNSTON, First let me applaud your efforts to have the US purchase enriched uranium from the former Soviet Union. This is a farsighted solution to a potentially dangerous problem.

Second let me urge you to actively support and promote the passage of S.Con.Res. 110. This is a bipartisan, patriotic bill which involves no public expenditure. It allows for the Thomas Paine National Historical Association to pay for and construct a statue on publicly-owned land which is controlled by Congress. The site is at Pennsylvania and Constitution Avenues. This location is appropriate since Paine rallied the Pennsylvanians to support the Revolution and he was the first to specifically call for a "Declaration of Independence" and a constitutional convention and propose an outline for our constitution. He significantly contributed to the first victory of the Continental Army with his immortal words: "These are the times that try men's souls . . . etc.", which Washington ordered read to the entire Army, and Presidents have used ever since in times of crisis up to and including the present. It is important that the Senators and Representatives from Louisiana lend their support to the passage of this bill.

Sincerely,

RICHARD L. MOLE,
Partner, Rue Royal Inn.

JAMES A. ROUSMANIERE,
16–A HERITAGE CIRCLE
Southbury, CT, March 23, 1992.

CHRISTOPHER J. DODD,
U.S. Senator, Washington, DC.

DEAR SENATOR DODD,

"These are the times that try men's souls, the summer soldier and the sunshine patriot will in this crisis, shrink from service to their country; but he that stands it now deserves the love and thanks of man and woman."

With these words Thomas Paine began a series of pamphlets calling on the will of the patriots to stand firm. This charge could be as well adapted to our present years of political indecision.

With these words I ask you to co-sponsor a Bill introduced by Senator Symms to allow a modest memorial to Thomas Paine on the grounds of the U.S. Capitol—at no cost to the taxpayer.

Being of French heritage myself, and a direct descendent of a soldier in Rochambeau's army, I am proud of Thomas Paine's contributions to his adoptive land, The United States of America. I hope you will share my pride and act to bring this memorial into being in our Capitol by sponsoring this legislation.

Yours sincerely

JAMES A. ROUSMANIERE,
Selectman, Town of Southbury.

THOMAS PAINE,
NATIONAL HISTORICAL ASSOCIATION,
June 10, 1992.

Hon. BRERETON JONES,
Governor, State Capitol Building, Frankfort, KY.

DEAR GOVERNOR JONES: On behalf of the Thomas Paine National Historical Association and admirers of Thomas Paine everywhere, I take great pleasure in extending to you our best wishes for the continued good fortune and success of the State of Kentucky on this the 200th anniversary of its becoming the 15th State and the first state to emerge from the Western territories.

We share your pride in this milestone achievement because of Thomas Paine's seminal role in this event. As Dr. Thomas Clark, Kentucky's Historian Laureate, recently noted, Thomas Paine's pamphlet Public Good was a "veritable bombshell at the very outset of the lengthy discussion of the separation of the West District of Virginia and creation of Kentucky. This was one of the

important bits of political yeast which spurred on the movement for separation of Kentucky from Virginia . . . [T]he experience of the separation of Kentucky and creation of the first independent Western State was to have a tremendous impact on the spread of statehood across the continent."

Please accept our heartfelt congratulations.

DOUGLAS A. COOPER,
President.

THOMAS PAINE SOCIETY,
43 WELLINGTON GARDENS, SELSEY,
West Sussex, England, 7th July 1992.

DEAR CITIZENS OF THE U.S.A., I cannot say how delighted I was to see all the wonderful testimonies by so many historians and others urging both houses of Congress to pass legislation permitting a monument or memorial to Thomas Paine; one of human kinds greatest benefactors. Senator Symms, David Henley and others are to be congratulated on the ardour with which they are pursuing this campaign.

When on my 'Paine pilgrimage' in 1989, I was absolutely astounded to find that there was no public recognition in the capital city to Thomas Paine, not only for his great part in promoting the founding of the U.S.A., which term he was the first to use, but also for his monumental part in promoting universal human rights, racial and sexual equality and freedom from oppression worldwide, democracy and for the brotherhood of man worldwide, and much else way ahead of his time.

To paraphrase Winston Churchill's famous statement about the Battle of Britain pilots in the 1939-45 war; "Never in the field of human conflict has so much been owed by so many to one man and yet so few acknowledged their debt to him for a long time afterwards."

Many great figures of the time paid handsome tributes to Thomas Paine and as Thomas Edison said, he was America's greatest political thinker and he practiced what he preached. What other man in those very uncertain times would have given away most of the profits from his writings to the causes of freedom, relief of debtors or let others make money out of them?

The 1990's are not unlike the 1790's when the old order of Monarchical and Aristocratic rule was being forced to start crumbling. This was set in motion by the quill of Thomas Paine and the personal example of his life in devoting it to the common good without regard for personal profit or personal power. Had he wished to play his cards in the conventional way he could easily have been a President of the U.S. He always said and acted accordingly, "principles before parties, otherwise parties rule principles" and in so many ways in his many faceted, adventurous life he refused to be corrupted or daunted by adversity.

In Britain and the world we still have much to learn from a study of Thomas Paine. Not least in Britain we need a written constitution which he did so much promote in America and France.

As one of the Paine clan as it were, I feel priviledged to be Hon; Secretary of the Thomas Paine Society, U.K. and very much hope with our members here and worldwide that Congress will very soon remedy the lack of a monument in Washington, DC.

We now at long last have a monument to Thomas Paine in the capital city of his motherland at Islington, where he wrote part of "Rights of Man" and I believe there are plans and hopes for Pantheonisation of him in France, where I recently attended a conference in honour of Thomas Paine, called "The Spring of the Rights of Man" and attended by Paine enthusists from many parts of the world.

With the world in a somewhat similar state of change and turmoil to the 1790's we need many more men of the calibre of Thomas Paine to cope with environmental threats from man's abuse of power over people in many lands and the whole ecosystem. Without his kind of courage and vision we cannot hope to tackle the problems threatening to overwhelm the wonderous creation of this planet, which he would be adament in insisting is the rightful inheritance for future generations.

Your sincerely,

ERIC PAINE,
Hon; Sec., Thomas Paine Society, U.K.

TRANSYLVANIA UNIVERSITY,
Lexington, KY, June 1, 1992.

Senator WENDELL H. FORD,
U.S. Senate, Washington, DC.

DEAR SENATOR FORD: I am curious to know why a hearing would be necessary in regard to S. Con. Res. 110 (regarding a memorial to the patriot Thomas Paine), which has received such widespread support from both the political and academic communities? I share the hearty endorsement my tutor and friend, Dr. Thomas D. Clark, has given the Paine memorial, recognizing that the author of Common Sense was one of our most important, yet badly neglected, Founding Fathers.

I trust, Senator, that you will do all you can as chair of the Rules Committee to expedite the long-overdue memorial to one of our country's first great democrats.

With my thanks and good wishes.

Sincerely yours,

PAUL E. FULLER,
Professor of History.

UNITED STATES CAPITOL
HISTORICAL SOCIETY, *Washington, DC,*
August 10, 1992.

Hon. ELEANOR HOLMES NORTON,
Longworth H.O.B., Washington, DC.

DEAR DELAGATE NORTON: I am writing to urge your continued support for Rep. Nita Lowey's effort to secure passage of a bill to authorize a fitting memorial to Thomas Paine.

Rep. Lowey favors passage of S. Con. Res. 110 which differs from the House bill [HR 1628] only in that it specifies the site for the memorial.

I urge you to support Rep. Lowey in anyway possible to see that S. Con. Res. 110 passes in this session.

Sincerely,

DONALD R. KENNON.

VANDERBILT UNIVERSITY,
Nashville, TN, August 6, 1992.

Hon. ALBERT GORE, JR.,
U.S. Senate, Washington, DC.

DEAR SENATOR GORE: I am writing to encourage you to support the bill introduced in the Senate to allow the use of public land at the intersection of Constitution and Pennsylvania Avenues for the erection of a memorial to the great patriot and civil libertarian Thomas Paine, S.Con.Res. 110.

This bill has the support of many members of the Congress, from both sides of the aisle, and I believe that it should receive an affirmative vote so that a statute to Thomas Paine can be erected. I understand that there would be no public expense involved; what is required is authorization for the use of the site for this evidently appropriate purpose.

Thomas Paine is one of the heroes of the American Revolution. For too long he has not received Washington's customary monumental acknowledgment of his standing and significance.

I recognize that the site selected is a most important one and that the erection of such a memorial to Thomas Paine might be thought to set a precedent that others would cite in their desire to honor their particular heroes. But surely Thomas Paine is one of a kind. After all these years, the attention given to his writings, his courage in the struggle for freedom, and the variety of his public skills and accomplishments clearly mark him as not only deserving of this distinctive place but, as I believe, uniquely deserving this recognition now.

Colleagues with whom I have talked agree with me in these sentiments, and I have no doubt that you do so too. Will you please consider giving this matter your support and leadership?

It would give me much pleasure to learn that you will make the time to help see this matter through before the Congress goes into recess. It would be good, once again, to see you joining with your colleagues across the aisle to assure a larger and more appropriate place in the public eye for Thomas Paine.

With warm wishes and personal regards, I am

Faithfully yours,

WALTER HARRELSON,
Distinguished Professor of
Hebrew Bible, emeritus.

VIRGINIA HISTORICAL SOCIETY,
Richmond, VA, June 30, 1992.

Hon. STEVE SYMMS,
Hart Office Building, Washington, DC.

DEAR SENATOR SYMMS: It is an honor to write on behalf of the Virginia Historical Society in support of the proposed Thomas Paine Memorial (S. Con. Res. 110). The Society's interest in the revolutionary founding fathers certainly extends beyond the bounds of Virginia; and Virginia, I assure you, is honored by the contributions of Paine as much as by those of Mason and Madison.

The Board of Trustees and administration of the Virginia Historical Society, therefore, heartily endorse the erection of a monument in honor of Thomas Paine to be secured through private subscriptions solicited by the Thomas Paine National Historical Association. Moreover, we welcome the addition of this monument not only as a contribution to the nation's collective historical memory but also as a beautification that will add to the dignity of the nation's most important avenue.

In closing this expression of support and in endorsing the hard work ahead for the Thomas Paine National Historical Association, I stress the value of this project for its vital reminiscence of the intellectual heroism of this country's founders and for its reminder of the necessity of private initiative in the raising of the necessary funds. On both points, I can only echo Thomas Paine himself: "When we are planning for posterity, we ought to remember that virtue is not hereditary." And, finally, "Those who expect to reap the blessings of freedom must, like men, undergo the fatigue of supporting it."

Mindful of both the lessons of the past and the obligations of the present, Senator Symms, the Virginia Historical Society fully endorses S. Con. Res. 110 and wishes you every success in securing its passage.

Respectfully,

CHARLES F. BRYAN, JR.,
Director.

WASHINGTON STATE UNIVERSITY,
Pullman, WA, July 7, 1992.

Senator STEVE SYMMS,
U.S. Senate, Washington, DC.

DEAR SENATOR SYMMS: I strongly endorse your proposed legislation to authorize the Thomas Paine Memorial Foundation to place a statue of Paine on Capitol grounds at the intersection of Pennsylvania and Constitution Avenues.

Paine's contributions to the cause of American independence are of inestimable importance. As the author of Common Sense and The Crisis, Paine was perhaps the most important molder of public opinion of his day. Little known in our own time, Paine deserves the honor you have proposed for him.

As you well know, Paine's major contributions to the "Glorious Cause" were made while he resided in Pennsylvania; Common Sense was an important milestone on the way toward American constitutionalism. A statue at the intersection of Pennsylvania and Constitution Avenues, therefore, is quite appropriate and would go a long way toward increasing Americans' awareness of the contributions of such a great patriot.

Sincerely yours,

DAVID L. COON,
Associate Professor.

WASHINGTON STATE UNIVERSITY,
Pullman, WA, June 25, 1992.

THOMAS S. FOLEY,
U.S. House of Representatives, Washington, DC.

DEAR CONGRESSMAN FOLEY: I never thought I'd agree with anything Steve Symms did, but I do support his effort to get Congressional approval for a Thomas Paine Memorial on publicly-owned land. Tom Paine's role as a catalyst for public opinion in the American Revolution was extraordinary. He was a teacher and activist, always a dynamic combination! I urge you to support S. Con. Res. 110, in spite of its unlikely origin.

Sincerely,

SUSAN H. ARMITAGE,
Director, American Studies Program and Professor of History.

WESLEYAN UNIVERSITY,
Middletown, CT, July 28, 1992.

SENATOR STEVEN D. SYMMS,
Hart Senate Office Building, Washington, DC.

DEAR SENATOR SYMMS: I have your letter of July 7, and I am glad to support S. Con. Res. 110 to build a memorial honoring Thomas Paine. It seems to me thoroughly appropriate, and the resolution is in the best tradition of voluntary acknowledgement. By copy of this letter I am informing my Connecticut Senators of my support.

With every good wish,

ROBERT WOOD.

WESTCHESTER COUNTY,
White Plains, NY, June 1, 1992.

Hon. STEVE SYMMS,
U.S. Senate, Washington, DC.

DEAR SENATOR SYMMS: Thank you for your letter concerning your legislation proposing the memorial to Thomas Paine.

I passed it on to our County Executive, Andrew P. O'Rourke thinking that he might want to write Senators D'Amato and Moynihan himself directly since he knows them so well. His letter would carry more weight than mine.

Mr. O'Rourke was happy to comply. I enclose a copy of his letter to Senator Moynihan. A similar letter went to Senator D'Amato, I believe.

Sincerely,

SUSAN C. SWANSON,
Westchester County Historian.

WESTCHESTER COUNTY,
May 21, 1992.

Hon. DANIEL P. MOYNIHAN,
U.S. Senate, Washington, DC.

DEAR SENATOR MOYNIHAN: I recently received a letter from Senator Steve Symms about his proposed legislation to construct a modest memorial to Thomas Paine on publicly-owned land at the intersection of Pennsylvania and Constitution Avenues in Washington, D.C. near the Capitol. Under Senator Symms' plan, the memorial would be constructed entirely through voluntary contributions at no cost to the taxpayer. I would like to request that you consider co-sponsoring this important legislation honoring one of New York State's greatest patriots.

We are extremely pleased that Senator Symms wishes to recognize Thomas Paine, whose philosophical ideas about democratic government, freedom of religion, slavery and the subjugation of women, were far ahead of his time. Thomas Paine's foothold in the United States was in New Rochelle in Westchester County, New York, where he lived on a modest farm awarded to him by the State of New York in recognition of his service during our War for Independence. His house is now a museum and open to the public.

I understand Congresswoman Nita Lowey has introduced similar but not site specific legislation which has over 215 bi-partisan co-sponsors. If she is able to get support of the House leadership, the site named in the Senate version will be accepted.

I hope that you will co-sponsor this legislation in honor of Westchester County and the State of New York. It will help bring Thomas Paine the national recognition that has been due him for more than 200 years.

Sincerely,

ANDREW P. O'ROURKE,
County Executive.

WESTCHESTER COUNTY BOARD OF LEGISLATORS,
White Plains, NY, July 6, 1992.

Hon. ALFONSE D'AMATO,
U.S. Senate, New York, NY.

DEAR SENATOR D'AMATO: I am writing to you to ask your support for S.Con.Res. 110 which would allow the private sector (through the Thomas Paine Historical Association of New Rochelle, New York) to construct a memorial honoring Paine on publicly-owned land at the intersection of Pennsylvania and Constitutional Avenues. It is without question that Thomas Paine galvanized support for the American Revolution through his writings and was a true leader for the cause of freedom in this nation—a leader whose memory has been largely overlooked.

If there is anything further I can do to express my support for S.Con.Res. 110 please let me know.

Sincerely,

STEPHEN P. TENORE,
Chairman.

WILLAMETTE UNIVERSITY,
July 16, 1992.

Senator MARK O. HATFIELD,
U.S. Senate, Washington, DC.

DEAR SENATOR HATFIELD: I am writing to urge your support of S. Con. Res. 110 to allow the construction of a memorial to Thomas Paine in Washington, D.C. Certainly Paine's contributions to the American revolutionary war, especially as the author of the momentous and influential Common Sense, warrant this special recognition in the nation's capital.

Knowing your keen interest in American history, I urge your support of this measure. Thank you for your consideration of the matter.

Sincerely,

GEORGE MCCOWEN,
Professor, History Department.

THE STATE HISTORICAL SOCIETY OF WISCONSIN,
Madison, WI., June 30, 1992.

Senator HERBERT KOHL,
U.S. Senate, Washington, DC.

DEAR SENATOR KOHL: The purpose of this letter is to endorse S. Con. Res. 110, which will allow the private sector to construct a memorial honoring Thomas Paine on publicly-owned land at the intersection of Pennsylvania and Constitution Avenues.

Paine made a significant contribution to early U.S. history and gave a new meaning to American Revolution. A revolutionary by temperament and something of a professional radical, he urged an immediate declaration of independence as the fulfillment of America's moral obligation to the world in his celebrated pamphlet Common Sense. Stirred by the onset of the French Revolution of 1789, he acted as self-appointed missionary of the world revolution. He hoped England would follow in France's course, and his Rights of Man was born in response to Edmund Burke's condemnation of events in France.

Honoring Paine serves an important purpose of promoting history, and it is a goal which the State Historical Society of Wisconsin strives to achieve. I ask you to give your support for this worthy cause. Thank you for your consideration.

Sincerely,

H. NICHOLAS MULLER III,
Director.

UNIVERSITY OF WISCONSIN,
Milwaukee, July 7, 1992.

Senator STEVE SYMMS,
U.S. Senate, Washington, DC.

DEAR SENATOR SYMMS: As a professor of American literature and as director of a postdoctoral research center, I write to endorse passage of S. Con. Res. 110 to authorize the construction of a monument to Thomas Paine on the U.S. Capital grounds.

Yours sincerely,

KATHLEEN WOODWARD,
Professor, Department of English and Comparative Literature; Director, Center for Twentieth Century Studies.

ORDER OF BUSINESS

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. NUNN. 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 Georgia is recognized.

NATIONAL DEFENSE AUTHORIZATION ACT

Mr. NUNN. Mr. President, I would like to speak for a few minutes on the effect of the postponement or perhaps even the effect of the prevention of the Defense authorization bill from being enacted this year.

I know the Senator from Hawaii is on the floor, and I will summarize my remarks very briefly because he will be the key decision maker in terms of what happens on the Defense appropriations bill. And what happens on that bill of course, is very much affected by what happens on the authorization bill.

I want to just take a few minutes to review for my colleagues where we stand on S. 3114, the National Defense Authorization Act for fiscal fear 1993.

Mr. President, I yield to the Senator from Hawaii.

Mr. INOUYE. Mr. President, I thank my colleague for yielding.

I would like to commend my friend from Georgia for discussing this matter this afternoon. It is most unfortunate that we are faced with this most undersirable situation because if the ultimate conclusion is reached, which is the continuing resolution, Mr. President, these are the possibilities. These are not hypothetical. If the impasses results in a continuing resolution, first, there will be no new starts. I will just give a few examples of what I mean by no new starts.

No funds will be available to begin work on our next nuclear carrier. All of us have been discussing the possibility of starting this new nuclear carrier. No funds will be in fiscal year 1993. The new fighter program for the Navy will not have any funds in the fiscal year 1993 account.

Second, since the continuing resolution will always be at the lower level of either the House-passed bill or last year's account, under this rule there will be no congressional initiatives, none would be funded.

For example, the amphibious ship, the LHD, sought by Senators LOTT and COCHRAN, will not be funded. The ships, the destroyers that are supported by the majority leader, the Senator from Maine, will not be funded. The House will agree to three. Our majority leader supports four. It will be at the House level. Programs such as the F-22 and the F/A-18 E/F will be back at the 1992 level.

Most important, no Senate initiatives, no supported programs will be considered. For example, the Senate Armed Services Committee bill offers new initiatives which are most important in the military personnel benefits and defense conversion programs. Under a continuing resolution, the defense conversion program will not be put into force. This may not be taken too well by our men and women in uniform. There will be no pay raise for military personnel.

Mr. President, these are just a few examples of what would happen if we have to resort to a continuing resolution, and I hope the Senate will have the good sense to avoid that.

I thank my friend from Georgia.

Mr. NUNN. Mr. President, I thank my friend from Hawaii. If I can ask him one question before he departs the floor.

Given the nature of the impasse we have on the SDI funding—and I know the Senator from Hawaii voted the same way I did; I was against the Sasser-Bumpers amendment, which cut that funding from $4.3 billion to $3.3 billion—if we do not have an authorization bill, does my friend from Hawaii see that there will be any way the Appropriations Committee could break that impasse or would you likely run into the same problem we have run into?

Mr. INOUYE. To put it mildly, Mr. President, I think we will run into the same problem. If this is not resolved at this stage, then I think the appropriations process should also anticipate the same problems.

Mr. NUNN. I thank my friend from Hawaii.

Mr. President, I thank the Senator from Hawaii, and I thank him for his support on both the amendment which is the subject of this impasse and for his splendid leadership in the overall appropriations process.

Mr. President, the Senator from Hawaii and I are trying to alert people, not to alarm them, but alert people to the consequences of what is now happening. There are a lot of people who believe you can basically just block defense bills and nothing happens. They believe someone is going to come along and bail it out, somebody is going to compromise, somebody is going to come their way, somebody is going to yield.

In this particular amendment, I talked with the people who voted on the other side of this amendment, the Sasser-Bumpers amendment. Perhaps the Senator from Wyoming, who is now holding up this bill based on his opposition to this amendment, which I understand, but which I think is not as important as the overall bill. Mr. President, I talked to a lot of people who voted on the other side. I do not find people who are ready to switch. So I hope the Senator from Wyoming and others who have supported his position will think very carefully about the results of what he is doing.

S. 3114 was reported to the Senate by the Armed Services Committee on July 31. We began debating the bill in the Senate last Friday morning, August 7. After we adopted the defense conversion amendment—which contains enormously important provisions for military personnel, for civilian personnel, and for people who are in the industrial sector—after we adopted that amendment which is now part of the bill, we began debating the amendment by Senator BUMPERS and Senator SASSER concerning SDI funding. That amendment would reduce for fiscal year 1993 SDI funding from $4.3 billion to $3.3 billion. We had a long and thorough debate on the amendment before a tabling motion was made. The motion to table was defeated by a vote of 43 to 49. I was one of those who voted with the 43 on the losing side. Frankly, I was disappointed but I was not surprised by the outcome of the vote.

During the debate on the fiscal year 1992 Defense appropriations bill last year, a motion to table a similar amendment by Senator BUMPERS and Senator SASSER to reduce SDI funding passed by only 1 vote, 50 to 49. Senator BUMPERS and Senator SASSER were willing to proceed to vote on their amendment following the vote on the motion to table last Friday, but we did not do that.

On Monday we tried to work out a unanimous-consent agreement to vote on the Bumpers-Sasser SDI amendment and to consider several other major amendments to the bill whose sponsors were cooperating in scheduling those debates. The majority leader, Senator MITCHELL, the Republican leader, Senator DOLE, the managers of the bill, Senator WARNER and myself, the sponsors of the amendment, and a number of other Senators worked very hard to reach this unanimous-consent request.

Senator BUMPERS and Senator SASSER were willing to vote on their amendment on Monday. They were also willing to set it aside to allow for consideration of several other amendments and vote Tuesday at 4 p.m. as suggested by the Republican leader, Senator DOLE. Unfortunately, the Senator from Wyoming and some other opponents of the Bumpers-Sasser amendment were not willing to allow the Senate to proceed to a vote on the amendment. Faced with the prospect of a stalemate on the Bumpers-Sasser amendment, the majority leader had no choice under the circumstances and the time constraints we are facing but to accept the recommendation which I made to set aside the bill and turn to other legislative business.

So at this point, those who objected to the unanimous-consent request—which of course is completely their right under the Senate rules—having lost a test vote, are contributing to the failure to make progress on the Defense authorization bill. Indeed, if they do not change their position when we come back in September, we will be jeopardizing the Defense authorization bill, as well as the Defense appropriations bill, which we have already had a dialog with the Senator from Hawaii about.

Mr. President, the Senator from West Virginia, Senator BYRD, the leader of the Appropriations Committee is on the floor.

I think he understands very well, probably better than anybody in the Congress, the results of an impasse on this kind of authorization bill because he understands that the defense appropriations bill will have the same impasse because we will have the same

issue on it, we will have the same vote, in all likelihood, and that will necessitate, as the Senator from Hawaii has already outlined, a continuing resolution.

Mr. President, we have a number of important provisions in this bill that, in all likelihood, would not be part of a continuing resolution and would not be enacted into law if this authorization bill is not passed. For the last several months, we have had two task forces in the Senate working on the problems of defense conversion and transition, a Democratic task force headed by Senator PRYOR, a Republican task force headed by Senator RUDMAN. Ninety percent of their suggestions and recommendations are in this bill.

The bill includes provisions to help active duty and reserve military members and for DOD civilian employees who lose their jobs as we reduce the size of the Defense Establishment. It authorizes DOD support for the Department of Labor's worker relocation and training programs under the Job Training Partnership Act. It authorizes $150 million for EDA grants and $30 million for DOD's Office of Economic Adjustment to help communities adversely affected by base closures or the drawdown of defense industries. It also includes a broad range of incentives to promote defense industry conversion and to preserve critical elements of our defense industrial base. These critically needed conversion measures are not one-line funding entries that can be cited in an appropriations bill. They are complex legislative provisions that are several hundred pages long, and they will be lost if the bill is not enacted.

S. 3114 also contains essential legislation in the military personnel area including a 3.7-percent military pay raise effective January 1, 1993, and the extension of key bonus authorities which expire September 30, 1992. These measures, in all likelihood, will be lost if we do not enact the bill.

For the National Guard and Reserve forces, S. 3114 expresses the congressional view that we should reduce the levels of the National Guard and Reserves at a more moderate rate than proposed by the Defense Department. The bill includes certain protections for National Guard and Reserve units and personnel until DOD submits a comprehensive report on the Active/Reserve force mix and implements the transition provisions for National Guardsmen and reservists proposed by the committee. The bill also includes an expansion of the JROTC Program from 1,600 to 3,500 high schools; establishes a National Guard Civilian Youth Opportunities Program; and authorizes a National Guard program called Science and Technology Academies Reinforcing Basic Aviation and Space Exploration [STARBASE]. These programs will help disadvantaged, at-risk young people, but they will be lost unless we can move ahead with the bill.

The bill contains a number of initiatives to improve the efficiency and reduce the cost of Defense Department operations. For example, there is a major initiative to improve inventory management in DOD, saving $3.2 billion in fiscal year 1993. The bill also contains legislative provisions to improve the efficiency of DOD recruiting operations and of the military service academies. These and other efficiencies will not be realized if this bill cannot move forward.

The defense authorization bill contains a major initiative to stimulate and encourage a thorough review of the assignment of roles and missions within the Defense Department. This is an area of enormous importance and can literally save, if done properly, billions and billions and billions of dollars for the American taxpayers without reducing our defense effectiveness.

The Defense Department has proposed a major overhaul and reform of the operations of the national defense stockpile, and the committee agreed with these proposals. The bill authorizes the disposal of large amounts of material no longer needed in the stockpile. The estimated revenue from these sales is $500 million in fiscal year 1993 and $600 million in fiscal year 1994. Without this disposal authority, these sales of unneeded material cannot take place.

S. 3114 also establishes a new Civil-Military Cooperative Action Program in the Department of Defense. This program will provide authorization for DOD assistance, consistent with the military mission, to civilian projects that address critical domestic problems in areas such as health care, nutrition, education, and infrastructure. This program cannot get underway, however, unless this bill is enacted.

Finally, Mr. President, we should not forget the large number of military construction projects affecting virtually every State in the Union. Under title 10 no funds can be spent for individual military construction projects unless the projects have been authorized by law.

Without the necessary authorization contained in S. 3114 the fiscal year 1993 military construction projects in the fiscal year 1993 military construction appropriations bill will not be able to be spent for specific projects, and that will apply to virtually every State in the country.

Mr. President, the bill contains a great many provisions that are essential to our national security and the men and women in the military and the men and women who work for the Department of Defense and the men and women who work for the defense industries of our country. Too much is at stake here to be held up because of one particular amendment. That is why I plan to file a cloture motion on the Bumpers-Sasser amendment as soon as we return from the August recess.

I want to make it clear that I oppose the Bumpers-Sasser amendment, and I will vote against it if cloture is invoked. I recognize that initially SDIO proposed a GPALS/Brilliant Pebbles-oriented plan that did not comply with our intent in last year's Missile Defense Act. However, the committee agreed with the concerns raised by the senior-most officials in the DOD acquisition community about the degree of concurrency and technical risk that SDIO proposed to build into the program, and we succeeded in getting the initial ABM deployment plan back on a sound acquisition track in the bill. The committee has already cut the fiscal year 1993 request for SDI by over $1 billion. If we are serious about deploying a limited, treaty-compliant ABM system next decade, I believe we should fund the program at the level recommended by the committee and passed by the House.

I understand that some Members voted against the tabling motion because of a May 1992 report by the Congressional Budget Office that maintained the SDI Program could be funded at the level recommended in the Sasser/Bumpers amendment without jeopardizing the 2002/2003 deployment target date. However, the CBO report itself cautions:

> Much of the money saved in this period [FY 1993-97] would eventually have to be spent if [this] system is deployed. The total cost might actually be higher than the level the administration plans because program delays can cause inefficiencies.

Even if one leaves aside the issue to higher total cost, though, the fatal flaw of the CBO report is that cutting money in the near term but holding the deployment date steady at 2003 delays the availability of test hardware until much further into the decade. This will lead to much higher concurrency than that provided for under the recently revised SDIO plan.

If Congress were to follow CBO's funding profile and prohibit SDIO from conducting a highly concurrent development, testing, and procurement program—which they are prohibited from doing under the revisions to the Mission Defense Act recommended by the committee—then the only recourse would be to postpone the date for operations of a limited defense system further—to 2006 or 2007.

As I indicated, Mr. President, I will vote for cloture on the Bumpers-Sasser amendment, and I urge my colleagues to join me in voting for cloture. We should not allow this bill to be blocked. If cloture is invoked, I intend to vote against the amendment.

Mr. President, I think it is ironic that at a time when the United States and our allies are considering the pos-

sible use of United States armed forces in hostilities in Bosnia—and at a time when the United States is considering whether it might have to use force to insure Saddam Hussein's compliance with the U.N. resolutions in Iraq—that some Members of this body appear willing to take action that would prevent the Senate from acting on the major authorization legislation for our national security programs and policies.

It is also ironic that at a time when military members, DOD civilian employees, private sector defense workers, communities, and defense businesses across the nation are beginning to feel the pinch of the defense drawdown, some Members of this body want to prevent the Senate from enacting legislation that will help deal with these problems.

I hope all Senators will think very carefully what they are doing here because an awful lot is at stake and sometimes people go entirely too close to the cliff thinking they would never fall off.

Mr. President, this may be the year when we all go off the cliff inadvertently but, nevertheless, with the same consequence.

Mr. President, I thank the Senator from West Virginia and the chairman of the Appropriations Committee, and I hope Members took note of what he said because this is very important.

There are people in this Chamber who have delayed matters before, and there will be those who will delay them again, and many times these matters work out. Many times people want to send a signal of their strong feeling on a particular matter, and at some point they feel that either cloture will be invoked or they would themselves be willing to yield.

But what I do not believe has been taken into account in this instance by those who have opposed this Sasser-Bumpers amendment so strenuously that they feel they must in effect hold up the entire bill, I do not think they realize what the Senator from West Virginia has just said.

We have 16 days when we get back before the beginning of the fiscal year. I do not believe they realize how close to the cliff we are. I hope they all will listen to what has been said here by the Senator from Hawaii and the Senator from West Virginia, because they are talking about a continuing resolution being the result of this, and a continuing resolution would be a very strict continuing resolution, and it would have no new starts.

What that also means, according to the custom, is that programs that have R&D, research and development, and are now ready to go into production, are going to be funded at last year's level.

So you have not simply new starts, but you also have numerous programs that are slated to move into production with a higher level of funding but they are going to end up being at a lower level of funding. So you are really talking about, in my view, tens of thousands of jobs here. And those effects will begin to be felt before this calendar year is over if we end up with a continuing resolution.

We have another set of circumstances which I do not believe those who are obstructing the bill have completely put into their thought processes. We have a likelihood—some people think possibility, some people think probability—of a new administration coming in. And without any reference to partisanship whatsoever, if we have a new administration coming in, the chances of that continuing resolution becoming moot, and becoming part of a major bill probably are very dim until somewhere in the middle of the spring.

If we have a continuing resolution, I doubt very seriously if we will be able to move to another bill or a supplemental appropriations bill before April or May of next year; maybe even longer than that.

So the consequent result of that could be that we could be on a continuing resolution for more than half of the next fiscal year. That is something I do not believe people are taking into account.

We have an opportunity on the Bumpers-Pryor amendment, if we go ahead and have the authorization bill. Those who believe they can produce the votes to have a different outcome, will have another chance on the appropriations bill. They will have a chance in the Committee on Appropriations. They will have a chance in conference because the House is at a higher level.

I believe that the price that is going to be paid for this kind of delay is an inordinate price.

I respect those who feel so strongly on this subject. But I do not believe they are looking at the broader perspective. I do not believe they are considering the consequences. I do not believe they are considering the consequences to our Nation's security and to tens of thousands of men and women in this country who are working for the defense industries or who are employed by the Department of Defense.

Mr. President, I thank the Senator from West Virginia for his leadership, for his cooperation. He is a very valuable member of our committee. And he is, of course, in one of the most important positions in the Congress of the United States as chairman of the Appropriations Committee.

I thank him for his explanation on this, because I think all Members need to understand it.

I hope those who are not here will read the RECORD and pay careful heed to what the Senator from West Virginia and the Senator from Hawaii have conveyed this evening.

Mr. President, I yield the floor.

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

Mr. BYRD. Mr. President, did the distinguished Senator from Nebraska wish to be heard?

Mr. EXON. Yes, if I can be.

Mr. BYRD. Mr. President, I yield for that purpose.

Mr. EXON. Mr. President, I want to associate myself with the remarks on the defense authorization bill just previously discussed by the Senator from Hawaii and the distinguished chairman of the authorizing committee a few moments ago. I hope we do not have to go to cloture on this matter, but I simply want to emphasize the warnings that have been issued by those two Senators, and the words of wisdom from the most experienced man on legislation in this body, Senator BYRD, that are going to follow should be heeded. I do not want to issue a warning. I am simply saying we have our work to do. I hope we can get at it quickly when we return.

Mr. BYRD. Mr. President, I agree with the statements made by the distinguished chairman of the Armed Services Committee, Mr. NUNN, and the distinguished chairman of the Defense Appropriations Subcommittee, Mr. INOUYE.

When the Senate returns on September 8, there will be only 16 working days left before the beginning of fiscal year 1993 on October 1. Considering the fact that 1 of the 17 days that will be left will be a religious holiday, that gives us 16 days. And during that first week of the Senate session in September, the Appropriations Committee will mark up four appropriations bills, hopefully—four: the 1993 supplemental, the Labor-HHS appropriations bill, the foreign operations appropriations bill, and the legislative branch appropriations bills.

In addition to these four appropriations bills, two other appropriations bills have been reported by the committee but have not been taken up by the Senate: the VA–HUD appropriations bill and the Treasury-Postal appropriations bill.

The Senate will need to act on these six appropriations bills as quickly as possible in September in order to get these bills to conference with the House, complete the conferences, take up the conference reports on the bills, and on the other appropriations bills which have passed the Senate. All of this work will have to be completed prior to October 1, if we are to avoid an omnibus continuing resolution.

In addition, it is possible that a number of appropriations bills may be vetoed by the President over issues such as abortion. Time prior to October 1st will also be needed to reconsider any appropriations bills which the President may have vetoed.

With all of this work facing the Senate upon its return on Setpember 8, we

cannot afford to continue unlimited debate on the pending Sasser/Bumpers amendment to the Armed Services Authorization bill.

The distinguished chairman of the Armed Services Committee has indicated that he will support a cloture motion, possibly even introduce a cloture motion. I will support that cloture motion on the amendment.

We will have to get to a vote on the Sasser-Bumpers amendment and then move quickly to complete action on the armed services bill in September, and then take up the defense appropriations bill. If the Senate cannot complete action on the armed services bill expeditiously, I would expect leadership to put the bill back on the calendar, and then proceed with a continuing resolution. That would mean that all of the hard work that has been done by the distinguished chairman of the committee, Mr. NUNN, and the distinguished ranking member of the committee, Mr. WARNER, and all of the members of that committee, excepting myself—I cannot claim to have done much work on the committee, I have been busy on the Appropriations Committee—but all of that work will have been for naught.

There are a number of very important initiatives in the Defense authorization bill, which takes major steps forward in refashioning our defense establishment and military forces for the post-bipolar cold war world. Responding to the diminished threats from the former Soviet bloc, it reduces military spending in many accounts while promoting an across-the-board review of military roles and missions. Another major initiative assists individuals, communities, and businesses in adjusting to the effects of the defense drawdown. Further, it establishes a program to encourage civil-military cooperation in addressing domestic problems. It makes the first major improvements in many years to reduce bloated DOD inventories and improve inventory management practices. It provides for increased utilization of the National Guard and Reserves more than in the past, in part in recognition of the extremely productive and valuable contributions made by those forces during the Desert Storm conflict. Further, it includes a series of important initiatives to make better civilian use of the large national defense technological and industrial base, with major emphasis on dual-use capabilities. Lastly, it makes a major effort at prohibiting the hemorrhaging of our critical technologies from being acquired by foreign governments, as in the recent attempt by the French Government to acquire the LTV Corp.'s assets.

The distinguished chairman, Mr. NUNN, has alluded to those initiatives, and his speeches as it appears in the RECORD will fully elaborate on those initiatives.

I would also point out that a major reorientation of our national intelligence priorities and programs has been taking place with close cooperation with the new leadership of the intelligence community, and that reordering is included in the defense bill. That is an effort which should not be stillborn for another year.

If we have to go to a continuing resolution for defense, I can assure Senators that it will in all likelihood be a very tight continuing resolution. A CR would allow for no new starts and would fall short of the needed funding levels for defense conversion. Such a CR would continue military spending at the most restrictive possible rate.

I urge all Senators to take a hard look at the consequences of failure to complete our work on appropriations bills, and, as I have indicated, failure to complete work on the defense authorization bill, and to cooperate with leadership, and with Senator NUNN and Senator WARNER, in these efforts during the remaining days of this session so that we may avoid an omnibus continuing resolution.

Mr. President, I thank the Senator from Georgia for his leadership, and I assure him that I will certainly vote with him in support of the cloture motion, and will do whatever I can do to expedite action on the bill that he has brought to the floor, and will continue to urge other Senators to do likewise.

Mr. GRAHAM addressed the Chair.

The PRESIDING OFFICER. The Senator from Florida is recognized.

Mr. GRAHAM. Mr. President, what is the pending business of the Senate?

The PRESIDING OFFICER. The Senate is presently in morning business.

Mr. GRAHAM. Thank you.

THE UNITED STATES POSITION ON HUMAN RIGHTS

Mr. GRAHAM. Mr. President, yesterday, we passed a very important statement of position when this Senate went on record as advising the President of the United States of our support of a policy of the United States taking leadership within the United Nations to fashion a United Nations position that would authorize effective international action, including force, for the purpose of protecting the delivery of humanitarian goods to the people of Bosnia and acquiring access to the detention camps, in which there are strong indications of major human rights abuses.

I supported that resolution because I believe it is consistent with my interpretation of the position of the United States in the world, deriving from the first statement of an independent United States of America, the Declaration of Independence. I have always interpreted that Declaration as being a universal statement of values to which the United States, then as 13 struggling colonies, had committed itself.

Mr. President, as I read over the resolution that we adopted, it struck me that there were some new principles being enunciated, or old principles being given new life. I would like to talk briefly about three of those, and then discuss their application to an area of the world that is much closer to us geographically, historically, and in terms of its immediate impact on the United States of America.

The first of those principles is that the distinction between a civil conflict and an international conflict between or among nations is becoming increasingly blurred. A traditional statement within international organizations has been one of respect for national sovereignty. And that statement has been interpreted as making it inappropriate for an international agency, whether it be the United Nations or regional agency, to involve itself in an internal dispute.

What I think we are seeing in the former regions of Yugoslavia is the difficulty of deciding what is a civil—as opposed to what is an international—conflict. We have opted, by our action yesterday, to essentially state that this is a conflict, whatever its characterization, that warrants international attention and involvement, including the use of force.

A second principle is that the primary responsibility lies with regional agencies, and that it is only when those regional agencies have indicated their inability to control events that we rise to the level of a multinational agency; in this case, the United Nations.

The prime responsibility for the circumstances in the former Yugoslavia has been considered to be at the European Community. The failure of the European Community thus far to be able to contain the violence has now led to a judgment that the United Nations Security Council action is required.

(Mr. BREAUX assumed the chair.)

Mr. GRAHAM. The third principle is the principle that the United States will be involved in these international circumstances, even when obvious political and economic interests are not at stake and are not threatened.

About a year and a half ago, we were involved in the issue of appropriateness of the United States' commitment of forces in the Persian Gulf. There, we had a clear economic involvement. Our interest in seeing that there was not a disruption in oil products clearly made that an issue that had United States interests involved.

It is less clear what the United States interests, or political interests, are in Bosnia. By our action yesterday, we were rising above those traditional limitations and saying that there were human rights issues, fundamental bases of dignity and fair treatment of human beings that warranted United States involvement.

Mr. President, with those three principles in mind, I would like to bring to the Senate's attention an area which, when we return in early September, will be entering its 11th month of repression, of the latest era, and that is Haiti.

On the 29th of September last year, the first democratically elected President in recent history of Haiti was deposed by an old-style military dictatorship. We are soon to celebrate an anniversary of that military dictatorship continuing to exercise its power, and the democratically elected President continuing to live in exile.

I believe that as we look at the situation in Haiti, we will find some similarities to the three principles that undergirded our action relative to Bosnia. There are serious human rights abuses going on today within Haiti; violations maybe that have not received the international attention of those in Bosnia, but violations of a widescale and serious nature.

Mr. President, I would like to read a paragraph from the Amnesty International Report of 1992, a comprehensive report on human rights violations around the world.

On page 133, this report describes conditions in the post-coup Haiti.

It states:

The days immediately following the 29 September coup were marked by violent repression, particularly in impoverished communities where support for President Aristide had been strongest. Many people were killed by soldiers in circumstances suggesting they had been extrajudicially executed. Soldiers deliberately opened fire into crowds, killing and wounding hundreds of people, including children, sometimes in the course of demonstrations against the coup. In Gonaïves, Artibonite department, six people were shot dead by the security forces after demonstrators set up barricades in the city. After a soldier was killed by a crowd in Lamentin 54, Port-au-Prince, soldiers reportedly raided private homes and shot more than 30 unarmed people dead, then forced relatives and other local people to bury the bodies.

That is a brief description of one period of the escalating human rights oppressions within Haiti. But the circumstances are not limited to just what is happening in Haiti. What has occurred there—a military coup deposing a democratically elected government—has sent a signal to the barracks throughout Latin America.

It is not, in my judgment, a matter of coincidence that shortly after the successful coup in Haiti, a coup was attempted in one of the longest standing democracies in Latin America—Venezuela; and a few weeks after that, a successful—what is described as an autocoup—where the executive in Peru deposed the parliament of Peru to impose essentially authoritarian rule.

This message that has been received by the militaries in at least two Latin American countries, is a message which is still in the air. And as long as the military coup is allowed to continue in Haiti, it has the potential for being heard, understood, and acted upon by those who are continuing to be dissatisfied with the new wave of democracy that is sweeping this hemisphere.

We in the United States are not unaffected by the events in Haiti, Mr. President. The most tangible examples of that effect have been the waves of refugees who have arrived or attempted to arrive in the United States of America.

At the present time, the United States is applying a very strict policy, a policy of turning back those who would attempt to leave Haiti, without providing them with the rights that have been considered fundamental in our refugee law: The right to present the case of legitimate political asylum.

I am disappointed that the United States is acting in a way that I believe is violative of international law and of our own standards of fair treatment of other people.

I also suggest, Mr. President, that in spite of this policy, we have not witnessed the last chapter of thousands of people attempting to leave this harsh and repressive regime.

Second, Mr. President, I believe that this, too, as in Bosnia, should be thought of as a regional issue. In this case, the regional agency is the Organization of American States. Thus far, the OAS has responded to the coup in Haiti by diplomatic efforts and by an embargo. Neither of these, after almost a year in place, have proven to be effective in terms of achieving their goal of restoring the democratically elected presidency in Haiti.

Third, the United States is positioning itself to be accused—as in fact it has already been accused in other areas of the world, such as Somalia—of only being interested in the white, rich man's war; that where it is a conflict involving an impoverished country, particularly a country that is not Caucasian, that the world adopts a different standard, a standard of acceptance and passivity.

It is also true that the United States is positioning itself in the 1990's to be accused of having tolerated a dictatorial takeover of democracy within our own hemisphere, of complicity in a Munich in the Caribbean.

I believe, Mr. President—just as yesterday we indicated our willingness to be involved, including our willingness to sanction the use of force in a country thousands of miles away—that it is time for the United States to be prepared to provide the same level of leadership within our own hemisphere.

I believe that the adoption of a policy that would say that the United States would take leadership with the regional agency, the Organization of American States, to develop a strategy, including one which might include the use of force to restore democracy in Haiti, would be consistent with the principles that drove our resolution yesterday on Bosnia.

I believe that the circumstances in Haiti are worthy of our concern for universal human rights. I believe that the challenge of providing leadership to restore democracy in this hemisphere and to indicate that we will not tolerate the military coups, which have been so much of our history in this hemisphere, deposing the will of the people, that that will not be part of our history at the end of the 20th century.

Mr. President, I applaud the action which was taken by the Senate yesterday on Bosnia. I ask that this Senate give serious consideration to those same principles being applied to a repressed people within our hemisphere, the people of Haiti.

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

The PRESIDING OFFICER. The absence of a quorum is noted. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

COMMEMORATING THE HUNGARIAN NATIONAL HOLIDAY

Mr. DOLE. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Senate Resolution 331, a resolution commemorating the Hungarian national holiday.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

A resolution (S. Res. 331) to Commemorate the Hungarian National Holiday.

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

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

Mr. DOLE. Mr. President, I rise today to urge my colleagues to support a resolution commemorating the founding of the Hungarian State by King Saint Stephen in the year 1000 AD.

The celebration of this national and religious holiday comes after almost a half a century of waiting—waiting for the successful ouster of the Communist government. Now that Hungary has shed the long shadow of its Communist era, the Hungarian people can once again commemorate their proud history.

Mr. President, I am confident that the entire Senate membership—and, indeed, all of America—join me in congratulating the Hungarian Government and the Hungarian people on this festive occasion. We send them our best

wishes for continued success in the successful establishment of a free, prosperous, and democratic nation. We also congratulate all Hungarian-Americans, who have made major contributions to the success and well-being of the United States of America.

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

The resolution was agreed to.

The preamble was agreed to.

The resolution (S. Res. 331), with its preamble, reads as follows:

S. RES. 331

Whereas the Republic of Hungary on August 20, 1992, will celebrate the founding of the Hungarian state by King Saint Stephen in 1000 AD;

Whereas the Hungarian people, because of their successful democratic revolution, will be able to celebrate this national and religious holiday for the first time since the Communists consolidated power in Hungary in 1947;

Whereas Hungarian-Americans, who have made major contributions to the prosperity and well-being of the United States, will join joyously in this celebration: Now, therefore, be it

Resolved, That the United States Senate hereby congratulates the Republic of Hungary on the Hungarian National Holiday and extends to Hungary its best wishes for continued success in establishing a free, prosperous, and democratic nation.

REPEAL OF THE WRIGHT AMENDMENT

Mr. DOLE. Mr. President, on September 17, 1991, I offered for myself and Senator KASSEBAUM an amendment to the Transportation appropriations bill to repeal the so-called Wright amendment which governs operations of commercial air traffic at Love Field in Dallas, TX. I have advocated the repeal since 1987, but in the spirit of teamwork and compromise, I agreed that we should wait for the Department of Transportation study that was underway before the Senate reviewed this issue again. With that in mind, I want to make sure that everyone understands the impact of the Wright amendment and the results of the most recent studies.

The 1980 Wright amendment is a federally mandated monopoly, one that exists nowhere else. This legislation no longer protects a struggling regional airport as was the original intent, but now provides for a multimillion-dollar special interest give-a-way at the expense of the flying public. In real term dollars, the Wright amendment impacts travelers in every State. I want to see, as I am sure every American does, the goal of the DOT report, "more service, more competition, and lower fares" for all travelers to and from Dallas, which is also the most frequent destination for Kansas air travelers.

On July 23, 1992, I sent a package of information on the Wright amendment to my colleagues summarizing the Federal Trade Commission and the Department of Transportation reports reiterating why the Wright amendment is wrong. I also included a letter from last October that identified the impact of the Wright amendment on a State-by-State basis. The most astounding conclusion about the impact of the Wright amendment is the estimated cost of $183 million per year that is added to airline ticket costs unnecessarily.

Mr. President, I ask unanimous consent that a sample of this package be printed at this point in the RECORD.

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

U.S. SENATE,
Washington, DC, July 23, 1992.

DEAR———: In October I alerted you to the direct cost impacts suffered by your traveling constituents based on the current Wright Amendment and the bill S-377 to repeal this outdated amendment. Recently the Federal Trade Commission and the Department of Transportation have come out with additional analysis validating that the Wright Amendment restrictions at Dallas Love Field do result in higher fares, less service, less competition, and inconveniences to the traveling public into and out of Dallas.

In 1980, in an effort to protect the new Dallas/Fort Worth Airport (D/FW), Congress passed legislation to restrict commercial operations to the downtown Dallas Love Field airport. Love Field had been the busiest and most convenient airport and at that time was D/FW's competition. The Wright Amendment has accomplished the purpose that was intended and, it is now time to let the second busiest airport D/FW stand on its own like all other airports in this nation. As a matter of fact, the DOT analysis states that, "Under all possible scenarios, D/FW will continue to grow and remain the region's dominant airport."

What we do need to be aware of is the impact of the Wright Amendment on our constituents, the American flying public. Why should your business associates, family or friends when traveling beyond a state contiguous to Texas leaving Love Field have to make two separate reservations, buy two separate tickets, exit the airplane at the airport within Texas or the contiguous state, take possession of their baggage, carry the baggage back to the ticket counter, recheck it, and board a new aircraft to continue on to their final destination. Sound ridiculous? It is, but that is what the Wright Amendment imposes. Using a major carrier into Dallas, you will not be advised of the Love Field option. All travelers are impacted and all travelers pay in terms of higher fares and time. It has been estimated that travelers to or from the Dallas Metroplex region would save $183 million dollars per year just in air fares. We in Congress are responsible for this financial burden and inconvenience to the public.

Repeal of the Wright Amendment will allow for more competition, lower fares, more service, and more convenience to the travelers. Safety will be maintained through the FAA procedures. This is our opportunity to eliminate a "One of a kind" federal restriction and put the control back in the hands of local government. Again, in all other areas which are served by competing airports (ie, Chicago O'Hare and Chicago Midway), control over those airports is left to local authorities who can impose their own restrictions based on local needs. It is time for us to address the needs of the flying public and repeal the Wright Amendment.

I hope you will take the time to review this issue. Enclosed you will find summaries of the Wright Amendment and the recent findings of the Federal Trade Commission and the Department of Transportation. I am also enclosing a copy of the October letter addressing specific costs in your area which you might want to follow up on the impact to residents and how they are being denied fair and reasonable air fares and freedom of travel because of the Wright Amendment. The Coalition for the Repeal of the Wright Amendment consists of airports, airlines, and consumer groups nation-wide who are intimately familiar with the discriminatory restrictions of the Wright Amendment. If you have any questions, please contact Greg Schnacke (4-6521) in my office or contact the Coalition directly at 775-1796.

Sincerely,

BOB DOLE,
U.S. Senate.

Sen. Brock Adams.
Sen. Daniel K. Akaka.
Sen. Max Baucus.
Sen. Joseph R. Biden, Jr.
Sen. Jeff Bingaman.
Sen. Christopher S. Bond.
Sen. David L. Boren.
Sen. Bill Bradley.
Sen. John B. Breaux.
Sen. Hank Brown.
Sen. Richard H. Bryan.
Sen. Dale Bumpers.
Sen. Quentin N. Burdick.
Sen. Conrad Burns.
Sen. Robert C. Byrd.
Sen. John H. Chafee.
Sen. Dan Coats.
Sen. Thad Cochran.
Sen. William S. Cohen.
Sen. Kent Conrad.
Sen. Larry Craig.
Sen. Alan Cranston.
Sen. Alfonse M. D'Amato.
Sen. John C. Danforth.
Sen. Thomas A. Daschle.
Sen. Dennis DeConcini.
Sen. Alan J. Dixon.
Sen. Christopher J. Dodd.
Sen. Pete V. Domenici.
Sen. Dave Durenberger.
Sen. James J. Exon.
Sen. Wendell H. Ford.
Sen. Wyche Fowler, Jr.
Sen. Jake Garn.
Sen. John Glenn.
Sen. Albert Gore, Jr.
Sen. Slade Gorton.
Sen. Bob Graham.
Sen. Charles E. Grassley.
Sen. Tom Harkin.
Sen. Orrin G. Hatch.
Sen. Mark O. Hatfield.
Sen. Howell Heflin.
Sen. Jesse Helms.
Sen. Ernest F. Hollings.
Sen. Daniel K. Inouye.
Sen. James M. Jeffords.
Sen. Bennett J. Johnston.
Sen. Nancy Landon Kassebaum.
Sen. Robert W. Kasten, Jr.
Sen. Edward M. Kennedy.
Sen. Robert J. Kerrey.
Sen. John F. Kerry.
Sen. Herb Kohl.
Sen. Frank R. Lautenberg.
Sen. Patrick Leahy.
Sen. Carl Levin.
Sen. Joseph I. Lieberman.

Sen. Trent Lott.
Sen. Robert G. Lugar.
Sen. Connie Mack.
Sen. John McCain.
Sen. Mitch McConnell.
Sen. Howard M. Metzenbaum.
Sen. Barbara Mikulski.
Sen. George J. Mitchell.
Sen. Daniel Patrick Moynihan.
Sen. Frank H. Murkowski.
Sen. Don Nickles.
Sen. Sam Nunn.
Sen. Bob Packwood.
Sen. Claiborne Pell.
Sen. Larry Pressler.
Sen. David Pryor.
Sen. Harry Reid.
Sen. Donald W. Riegle, Jr.
Sen. Charles S. Robb.
Sen. John D. Rockefeller, IV.
Sen. William V. Roth, Jr.
Sen. Warren Rudman.
Sen. Terry Sanford.
Sen. Paul S. Sarbanes.
Sen. Jim Sasser.
Sen. John Seymour.
Sen. Richard C. Shelby.
Sen. Paul Simon.
Sen. Alan K. Simpson.
Sen. Robert Smith.
Sen. Arlen Specter.
Sen. Ted Stevens.
Sen. Steve Symms.
Sen. Strom Thurmond.
Sen. Malcolm Wallop.
Sen. John W. Warner.
Sen. Paul Wellstone.
Sen. Timothy E. Wirth.
Sen. Harris Wofford

U.S. SENATE,
Washington, DC, October 8, 1991.

Senator ERNEST HOLLINGS,
U.S. Senate, Washington, DC.

DEAR FRITZ: It's a classic case of "you can't get there from here." Despite deregulating the airline industry over a decade ago, the federal government still restricts air service at one commercial airport. This federal restriction is one of a kind and exists for no other airport in the country. It may be unconstitutional. It is unquestionably anticompetitive, removes control from local governments, is contrary to airline deregulation and it inflates fares for South Carolina air passengers!

In 1980, in an effort to protect the fledgling Dallas/Fort Worth Airport (D/FW), Congress passed legislation to restrict commercial airline operations to the more convenient, downtown Dallas Love Field airport, which was viewed as a competitive threat. This is the first and only time this restriction has been placed on any airport in any state in the country, even though several cities have more than one airport which compete against each other.

The restriction was sponsored by former House Speaker Jim Wright and has become known as the "Wright Amendment." The Amendment prohibits airlines from providing service between Love Field and destinations located outside of Texas or its four surrounding states. As we have stated on the Senate Floor, the Wright Amendment accomplished its goal; D/FW is now the second busiest airport in the nation. The question is whether the Wright Amendment continues to serve the flying public.

In all other areas which are served by competing airports, control over those airports is left to local authorities that can impose restrictions in the best local interest. The Wright Amendment denies the local control enjoyed by all other regions of the country, and instead requires adherence to federal restrictions far in excess of those in existence anywhere in the United States. If supporters of the Wright Amendment are correct in their belief that Dallas and Fort Worth officials are united in support of the Amendment, they have nothing to fear of repeal.

Dr. Alfred E. Kahn, Chairman of the Civil Aeronautics Board in the Carter Administration, believes the Wright Amendment is flatly in conflict with deregulation of the airline industry, constitutes exactly the kind of barrier to free market competition that deregulation seeks to eliminate, and is a direct and substantial burden on air travelers wishing to travel between Dallas and other parts of the country outside Texas and its four surrounding states.

The Wright Amendment inflates airfares by keeping low-cost carriers such as Southwest Airlines from serving your state from its base at Love Field. When low-cost carriers serve cities in your state, other airlines must offer similar fares to stay competitive. Without this competition, airlines are free to charge outrageous fares to Dallas.

For example, round-trip travel to the Dallas/Fort Worth area from unrestricted states typically costs an air traveler 10 to 12 cents per mile, while travel from South Carolina can cost nearly 20 cents per mile. In addition, to get to Love Field under the Wright Amendment, your constituents would be forced to first make two separate reservations, purchase two separate tickets, and fly to Arkansas or Louisiana. Upon arrival, these South Carolina residents would be forced to deplane and claim their baggage from the baggage carousels, carry the luggage to the southwest counter, and recheck it. Only then could your constituents board a separate aircraft and continue on to Dallas. If this sounds more like travel in another part of the world, you have the Wright Amendment to blame.

These fare discrepancies and tortuous travel restrictions apply to other states across the nation as well. That is why airports, airlines, and consumer groups nationwide are members of the Coalition for Wright Amendment Repeal.

We hope you will take the time to review this matter in more detail to learn how residents of your state and ours are being denied fair and reasonable airfares and freedom of travel under a law that has far outlived its usefulness. If you wish to cosponsor S. 377, contact Ed Bolen in Senator Kassebaum's office (4-4774), or Greg Schnacke (4-6521) in Senator Dole's office.

Sincerely,

BOB DOLE.
NANCY KASSEBAUM.

WRIGHT AMENDMENT

Federal law that prohibits commercial airlines from providing nonstop service, direct service, or connecting service between Love Field and destinations outside of Texas, Louisiana, Arkansas, Oklahoma, and New Mexico ("the 5-state area").

The restrictions passed by Congress on the use of Love Field was to ensure the success of the new airport and protect the cities bond obligations.

D/FW now has the second busiest tower in the system and is no longer the fledgling airport in need of protection.

Only Washington National and Dallas Love Field have mileage restrictions in place. National imposed their restrictions based on congestion, Love's restrictions imposed by Congress to bring business to D/FW.

There are no similar restrictions at other competing locations, such as Houston Hobby and Houston Intercontinental or Chicago O'Hare and Chicago Midway.

National allows through ticketing/through services. Under the Wright Amendment, Love Field passengers travelling beyond a state contiguous to Texas (5-state area) must make two separate reservations, buy two separate tickets, must exit the airplane at an airport within Texas or a contiguous state, must take possession of all checked baggage, carry the baggage to the ticket counter, recheck the baggage and board a new aircraft to continue to the final destination.

The above double ticketing option is not publicized and while inconvenient, it is unknown to most American travelers thus eliminating their choice and increasing their costs.

The Government imposed monopoly has led to a distortion in air fares for example, when adjusted on a mileage basis, passengers flying to Dallas from Wichita, Kansas pay 900 percent more than passengers from either Oklahoma City or Tulsa, OK. The sole reason is that Oklahoma has competition and the choice of D/FW or Love Field.

Business and tourist travelers to Dallas from every state except five must fly to D/FW and then drive to Dallas, unlike the choice in every other city in the nation with more than one airport. Repeal of the Wright Amendment would allow travelers from Atlanta, Miami, Chicago, New York, Seattle, Los Angeles, Las Vegas, etc. to finally have a choice.

DOT ANALYSIS OF THE IMPACT CHANGES TO THE WRIGHT AMENDMENT

AREAS REVIEWED

a. Impact competition and fares
b. Capacity at Love Field (LF)
c. Impact of LF vs growth of Dallas Ft. Worth (D/FW)
d. Travelers preference (LF vs D/FW)
e. Environmental consequences of increased traffic at LF

OPTIONS REVIEWED

a. Base Case (650 miles/no through tickets/service)
b. Modified Wright = 650 miles radius, through tickets/svc
c. Full Repeal of the Wright Amendment
1. Equal Access
2. One carrier develop LF as a major origin/destination
3. Development of LF as a major hub

COMPARATIVE DATA PER OPTION

Data elements	Modified	Equal access	Major O/D	Major hub
Growth of operations (Percent).	6–96 2.6–01	15–96 2.6–01	19–96	27–96 2.6–01
Number of aircraft operations.	214,200–90 287,000–96 325,000–01	214,200–90 329,000–96 356,000–01	214,200–90 346,000–96 378,000–01	214,200–90 442,000–96 490,000–01
Enplanements.	3.0m–90 5.1m–96 5.8m–01	3.0m–90 7.2m–96 8.2m–01	3.0m–90 8.9m–96 10.1m–01	3.0m–90 14.1m–96 16.0m–01
Fare Savings	167m	183m (repeal)		
Parking	4,500–90 8,200–01	4,500–90 13,000–01	4,500–90 13,800–01	4,500–90 18,000–01
Terminal Space/SF.	691,000 25 gates	981,500 40 gates	1,214,600 45 gates	1,922,900 70 gates

SUMMARY POINTS

A. Change will result in more service, more competition, lower fares, and subsequently more traffic.

B. LF operations are limited by airspace with D/FW.

C. When operations reach 360,000 annually, aircraft delays may occur at LF.

D. D/FW will continue to grow and remain the dominant airport.

E. Noise/air pollution are local issues. With all options, stage 3 aircraft will reduce the size of the noise contour.

FEDERAL TRADE COMMISSION PROPOSAL "MODIFY RESTRICTIONS ON LOVE FIELD"

Proposes to maintain the prohibition against non-stop service to point outside the five-state area.

Airlines should be allowed to offer and publicize direct and connecting service from Love Field to such destination through points within the five-state area.

Prices for tickets from D/FT to destinations that can't be served by Love Field are significantly higher than fares from Houston to those same destinations.

Modifying Love Field restrictions may increase competition and lower fares to consumers flying into or out of D/FW.

Single ticketing is less expensive than the present double ticketing thus fares from Love Field to certain destinations may also be reduced.

Modifying restrictions on Love Field will likely: increase competition, increase capacity, provide added convenience, reduce D/FW congestion.

The traveling public could benefit through; lower fares—(increased competition), lower parking/commuter costs, and reduced delays at D/FW.

Modification allows Love Field airlines to compete with D/FW.

Does not address modifications and their impact to noise. Noise abatement can be dealt with through measures that affect flight frequency and aircraft choice.

Summary: Retain the five-state restriction but allow through ticketing/services.

Mr. DOLE. As my colleagues know, the Wright amendment prohibits commercial passenger operations from providing nonstop service, direct service, or connecting service between Love Field in Dallas and destinations outside of Texas, Louisiana, Arkansas, Oklahoma, and New Mexico. Airlines can perform turnaround service only in these five States; they cannot perform through-service or through-ticketing with another carrier; and, the airplane cannot operate beyond these five States. According to the amendment:

Such Love Field carriers may not hold out, offer, or advertise Love Field services to or from points beyond the four contiguous States in any respect, including the publication of connecting flight schedules in airline guides, flight schedules or similar media.

Mr. President, with these kinds of restrictions competition is obviously limited, higher fares are a direct outcome, and it is a tremendous inconvenience to the flying public. For example, when traveling beyond a State contiguous to Texas leaving Love Field, you have to make two separate reservations, buy two separate tickets, exit the plane at the airport with Texas or the contiguous State, take possession of all your luggage, carry it back to the ticket counter, recheck it, and board a new airplane to continue to your final destination. If flying into Dallas-Fort Worth, you will not be advised of the Love Field option. This lack of options, no through-service or through-fares when flying into or out of Love Field, and higher fares using D/FW defines all that is wrong with the Wright amendment.

Mr. President, the Wright amendment was established to protect the newly constructed Dallas-Fort Worth Airport and the bonds for that airport. The issues facing Fort Worth and Dallas then are very different from today's issues. The concept that D/FW will be severely impacted by repeal of the Wright amendment has not been validated in any report. The contrary is true. The DOT report stated that D/FW will continue to grow and remain the dominant airport and that expansion plans are not threatened by this repeal. It is also significant to note that Alliance, Fort Worth's industrial airport, is not covered by the Wright amendment. The restrictions only apply to passengers not to cargo. It is ironic that Alliance was not a threat to D/FW's economic viability, yet Love Field dealing with passengers is. In addition, the strong concern for safety, noise, and capacity issues were thoroughly addressed in the DOT study. D/FW is and will be, with 49 million passengers, and over 150 domestic and international destinations, the hub of aviation for the Southwest.

We all are impacted by the Wright amendment and even locally there is strong support for repeal. The coalition for repeal of the Wright amendment which consists of airports, airlines; interest groups—Consumer Federation of America and public citizen's aviation consumer action project—and unions—the National Air Traffic Controllers Association, MEBA–AFL/CIO—have joined forces to publicly oppose the Wright amendment. It is significant to note that local Dallas business leaders as well as communities such as Carrollton, TX, and community Groups—including the North Dallas Chamber of Commerce, Stemmons Corridor Business Association, St. Paul Medical Center, and the Children's Medical Center—publicly oppose the Wright amendment. Several newspaper articles that support local interest in repealing the Wright amendment tell the story. I ask unanimous consent that they be printed in the RECORD.

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

[From the Wichita Eagle, Oct. 17, 1991]

REPEAL IT: SUPREME COURT BUFFETS EFFORT TO GET LOWER AIRFARES TO DALLAS

All is not lost in the Supreme Court's rejection Tuesday of a constitutional challenge to the Wright Amendment. The law, named after former Speaker of the House Jim Wright, makes it impossible for Wichitans to fly directly to Dallas' Love Field on Southwest Airlines, which offers low-cost, no-frills service.

But Kansans intent on seeing the law changed are not giving up. Attorney General Bob Stephen is proceeding with this court case against the Wright Amendment. Rep. Dan Glickman and Sens. Bob Dole and Nancy Kassebaum have introduced legislation to repeal it.

Not that the opposition isn't tough. Texas Senators and House members are fighting to keep things as they are. And they are being pushed to do so by American Airlines which, of course, doesn't want more competition from Southwest Airlines in such markets as Wichita.

Taking on the state of Texas and American Airlines isn't easy, as Kansas leaders have already discovered. Sen. Dole's attempt to get repeal by amending Senate transportation appropriations legislation last month failed to pass. And Rep. Glickman's testimony before a House committee hearing on the issue didn't sway the opposition. As one hill staffer put it, "We're in a holding pattern."

So the battle goes on and Kansas political leaders have some tough competition, but they plan to keep trying.

They should. The Wright Amendment is unfair. It limits Wichita's air service to Dallas-Ft. Worth and makes flying to Texas more costly. It should be repealed.

[From the Metrocrest News, Dec. 5, 1991]

WRIGHT AMENDMENT CAMPAIGN GAINS SUPPORT

(By Brad Neilsen)

The Carrollton city council has received support and some turndowns to its request that other Dallas/Fort Worth municipalities join in endorsing repeal or modification of the Wright Amendment.

The Carrollton council on Oct. 8 became the first Dallas/Fort Worth municipality to call for repeal or modifications to the Wright Amendment, voting 5–0 with one abstention to endorse a resolution sponsored by Council member Brad Thomas.

The cities of Farmers Branch, Coppell and The Colony recently passed resolutions endorsing repeal or modification of the amendment, which some claim hurts the Dallas/Fort Worth economy by inflating airfare prices at D/FW Airport. The Metrocrest Chamber of Commerce has also endorsed repeal. The town of Addison votes on a proposed resolution Dec. 10.

The resolution passed by the Colony states that the "high cost of flying into and out of Dallas makes our convention and meeting industries suffer, thus hurting the local hotel, restaurant and convention trade."

However, the city councils of Garland and Plano have both declined to endorse repeal or modification of the Wright Amendment, Plano Mayor Florence Shapiro responded to Mayor Milburn Gravley that the Plano council felt "no action is appropriate for this time."

Garland Mayor Bill Tomlinson wrote Gravely, saying, "I believe it would be premature for us to go on record in support of the repeal or revision of the measure. Therefore, we will stand aside for the current time. . . . At some future date, the City of Garland could feel differently in their stance on this particular issue."

Mayor Richard Greene of Arlington also informed Gravley his city would not support repeal or revision of the amendment.

"It is vitally important to Arlington to support measures that protect the viability of D/FW International Airport," Greene said in a letter to Gravley.

However, Professor Bernard L. Weinstein, director of economic development at The University of North Texas, said the economic clout of D/FW Airport is exaggerated by major air carriers based at D/FW.

"That's kind of a facetious argument," Weinstein said. "The viability of Arlington should be the major concern. And one way to do that is to keep airfares low at D/FW Airport. American Airlines has formed alliances with lots of area chambers of commerce that have bought the 'D/FW, do-or-die' line."

Weinstein, who endorsed repeal before the U.S. House subcommittee on public works and transportation in Sept., said the need for D/FW Airport to stand alone in Dallas/Fort Worth has been exaggerated by two major airlines based at the airport.

"The argument that D/FW is the prime mover for the Metropolex is overstated," Weinstein said. "I think a lot of the communities have literally been arm-twisted that any competition at D/FW Airport—which is really competition for American Airlines—is not in their interest. What we have in the Wright Amendment is a government monopoly producing choice. There's a popular fiction that any growth at Love Field is going to be detrimental to D/FW. And that's nonsense. It's obviously a question of whose interests we're talking about."

Weinstein, Thomas and others maintain the amendment's restrictions, limiting national flights from Love Field, artificially raises airfares at D/FW International Airport and contributes to chilled economic growth in the Dallas region.

"I'm very happy with the way that it's progressed so far." Thomas said of the response from other Metroplex city councils. "Within an eight-week period of time we have picked up endorsements from a number of organizations. I think the citizens of this community can keep the pressure on their elected representatives to keep the skies safe, yet move on to create more competition."

Thomas has said restrictions in the amendment artificially boost airfares out of D/FW Airport, with fares to national destinations in many cases more than 100 percent higher compared with the same flights from Houston, Austin or San Antonio. Thomas said the very same planes, which originate in Houston, San Antonio or Austin, stop in Dallas to pick up Dallas passengers who pay in many cases double the rate charged passengers who boarded in Houston or other major Texas cities.

Thomas met Monday with Congressman Dick Armey to seek the congressman's support in making modifications to the federal legislation engineered by former House Speaker Jim Wright.

Thomas supports three possible modifications to the amendment, the first of which would allow flights 700 to 800 miles in circumference from Love Field, roughly the distance from Dallas to Albequerque, N.M. That destination is the farthest non-stop direct flight available from Love Field on Southwest Airlines.

"That means flights would be allowed to any area within that mileage in all directions," Thomas said. "I would also like to see through-ticketing allowed and have the FAA set a limit on the number of flights that they consider safe flying out of Love Field."

Thomas' second proposal is to allow Love Field to continue to serve the five-state area it now serves, Texas, Arkansas, New Mexico, Louisiana and Oklahoma. He would also like to allow full through-ticketing, meaning customers could purchase a ticket to a final destination beyond the contiguous four states area. Baggage would be checked straight through and passengers flying from Love Field would only be limited to a brief touch-down in a border state before continuing on to their final destination.

Failing implementation of those two proposals. Thomas said, the federal government should recognize the Wright Amendment grants a virtual monopoly to two major carriers at D/FW Airport and assume responsibility to regulate fares at D/FW.

"I think if there's no willingness to modify the amendment then the federal government owes it to the public to regulate fares out of D/FW just as they restrict utility companies and other monopolies," Thomas said, "If nothing can be done out of Love Field to protect the consumer, then the rule should be that you can't be charged more to fly out of Dallas than you are to go through Dallas or change planes in Dallas. That would force competitive prices here."

Thomas said he's heard from several residents outside the Metrocrest area who feel the federal legislation is counterproductive to economic development.

"About half the phone calls I'm getting are from people in Dallas, close to Love Field, and they're very encouraging," Thomas said. "They say they're tired of the rundown hotels and the economic devastation going on around Love Field. They call me up and thank me. When anyone really looks at the price differences, there is no excuse for it. And that's the reason many companies don't fly to Dallas anymore."

Weinstein said the impact of the Wright Amendments's restrictions at Love Field, limiting non-stop flights to the five contiguous states bordering Texas, has effectively bottled up economic development in the portion of Dallas neighboring Love Field. The limitations have also put a cap on growth of Southwest Airlines employment and operations in Dallas, Weinstein said.

"You can already see how we've lost in terms of Southwest," Weinstein said, "Southwest can't grow here so they don't grow here. There biggest hub used to be Dallas. Now we're number three. Southwest is a rapidly growing airline, but they don't grow in Dallas, because they can't grow in Dallas. They can't fly anywhere from Dallas and they can't even do through-ticketing. So we lose all the jobs. And the city of Dallas is the one that really loses because Love Field is within the taxation boundaries of the city."

[From the Dallas Morning News, Mar. 27, 1992]

LOVE FIELD RESTRICTIONS TARGETED

(By Catalina Camia)

Dallas City Council member Jerry Bartos, touting a 2-year-old law journal article challenging the Wright amendment, set the stage Thursday for a new battle over restrictions at Love Field.

Mr. Bartos said he has 11 votes on the 15-member City Council to seek to ease the flight restrictions at city-owned Love Field. Only Congress can repeal or modify the amendment.

But Mr. Bartos said those 11 votes could change if the "2,000-pound gorilla"—a reference to American Airlines—begins lobbying council members. American, the largest carrier at Dallas/Fort Worth International Airport, strongly opposed the council's last effort in 1990 to change the Wright amendment.

"This council hasn't spoken," Mr. Bartos said. "As of last night, I counted 11 votes * * * After the gorilla wanders these halls, who knows?"

Mr. Bartos' comments came during a news conference at City Hall in which he praised a 1990 article from the Southern Methodist University School of Law's *Journal of Air Law and Commerce* that contends there is no legal basis for the restrictions.

The Wright amendment limits commercial flights to and from Love Field to Texas and its four adjoining states: Oklahoma, Louisiana, Arkansas and New Mexico. The law, passed by Congress in 1979, was written by former House Speaker Jim Wright of Fort Worth and was designed to protect development at D/FW airport.

Also at the new conference were council member Al Lipcomb, Carrollton City Council member Brad Thomas and Bob McElearney from the Oak Cliff Chamber of Commerce. All support changes to the amendment.

Council member Lori Palmer, who supports the Wright amendment, said she does not believe Mr. Bartos has the 11 votes he claims.

"None of this is new. He has made these claims before." Ms. Palmer said. "His support disassembles, not because of a 2,000-pound gorilla, but as they receive accurate information most people come to a different conclusion that the Wright amendment is not broken and need not be fixed."

Ms. Palmer said the law protects neighborhoods surrounding Love Field and makes good economic sense.

In 1989, the council passed a resolution that supported an easing of the Love Field restrictions. But in 1990, the council reversed itself after the city of Fort Worth and American Airlines argued that a repeal of the Wright amendment would hurt D/FW airport.

Mr. Bartos said new recommendations would include a proposal for through-ticketing and allowing flights in and out of Love Field from cities that are 650 miles away from Dallas. Through-ticketing would eliminate a passenger's need to get a connecting flight to a destination outside of the current five-state limit.

Officials with American Airlines Inc. declined Thursday to respond to Mr. Barto's comments or any Dallas proposals.

Dallas-based Southwest Airlines Co., the only scheduled carrier operating at Love, said it is neutral on the issue.

Atlanta-based Delta Air Lines Inc., the second-largest carrier at D/FW, said it wants to stay there regardless of whether the Wright amendment is changed.

MARC A. BIRNBAUM, INC.
Dallas, TX, February 3, 1992.

Hon. PAUL FIELDING,
Dallas City Hall, Dallas, TX.

DEAR PAUL: I am writing you this letter in response to a recently outrageous incident involving American Airlines.

I was ticketed on a round-trip between Austin and Los Angeles. The flight required a change of planes in Dallas. However due to a change of plans, I was unable to use the Austin to Dallas segment of the ticket. To my amazement, as I boarded the plane I was politely asked to speak with George Bartuleviez, American Airlines Security Analyst.

He refused to permit me use of my ticket and required me, "if you want to fly" to pay an additional $810.50. Therefore, the effective penalty for not flying Austin to Dallas was an increase of 280%.

Paul, the truly outrageous part of this incident is that the reason given for this absurd increase is "due to competition". The City of Dallas failure to permit open competition out of Love Field has permitted American to seemingly restrict the traveler to open market access to competitive air fares.

Could this be the reason for business not relocating to the metroplex. If your business required a lot of travel your air fare would

be 60% less in a non-restricted market. The council must consider the costs to Dallas in lost relocations.

Sincerely,

MARC A. BIRNBAUM,
President.

Mr. DOLE. The question is simple, should Congress dictate a lack of competition at Love Field? Where are my colleagues who over use the phase competitiveness? Should Congress mandate that the flying public unnecessarily pay $183 million more? This is a $183 million strain on our otherwise tight economy. The DOT study notes that average fares to and from Dallas-Fort Worth are significantly higher than the national norm, nearly $27 per ticket.

While we respect the needs of Dallas and Fort Worth, the time has come to make the U.S. traveling public—the people, not the cargo,—our first priority. For these reasons, I continue to support repeal of the Wright amendment. It is the right thing to do.

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.

REAUTHORIZATION OF HOUSING AND COMMUNITY DEVELOPMENT PROGRAMS

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 558, S. 3031, a bill to reauthorize housing and community development programs.

The PRESIDING OFFICER. Is there objection to the unanimous-consent request?

Mr. SIMPSON. Mr. President, it is not my personal intention to object, but apparently we find on our side of the aisle a Member—and it is my duty to speak for them as a member of the leadership—who does object to this for reasons unknown to this particular Senator.

The PRESIDING OFFICER. Objection is heard.

Mr. MITCHELL. Mr. President, I regret the objection. This is an important measure, reauthorizing the housing and community development programs. It has been cleared by all Democratic Senators, and I am advised that the Secretary of Housing and Urban Development, Mr. Kemp, does not oppose the measure and favors its enactment. It is an important measure, and this delay, of course, will cast into doubt our capacity to complete action on this measure, at the very least delaying action until we return following Labor Day.

I certainly respect the distinguished Senator from Wyoming who is here interposing an objection on behalf of a colleague. But I just want the record to show that we, in the majority, are prepared to act on this bill. We would like to pass it tonight. We cannot do so now in light of the objection, and I regret that, but I accept that under the circumstances.

Mr. SIMPSON. Mr. President, I appreciate that. It is one of those things that the leader is confronted with on many occasions in his duties as majority leader. I will not add my editorial comment. It does seem that it cannot go forward, and I regret that personally myself.

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

Mr. SIMPSON. Mr. President, I am advised that one of my colleagues, Senator KIT BOND, is quite disappointed the housing measure is not able to go forward.

I wish to pay great credit to him for trying very hard during this day to work this out. Apparently, it was unable to be worked out. But that would not be because of any failure of Senator BOND of Missouri. I commend him. I have watched him work so hard to try to bring this bill forward, and that is not to be. Certainly, Senator BOND deserves a great deal of credit for the extra work he did to try to bring it to pass. I thank him.

FAA CIVIL PENALTY ADMINISTRATIVE ASSESSMENT ACT

Mr. FORD. Mr. President, I ask unanimous consent the Senate proceed to the immediate consideration of Calendar No. 597, H.R. 5481, a bill to amend the Federal Aviation Act of 1958, relating to administrative assessment of civil penalties; that the bill be deemed read three times, passed, and the motion to reconsider be laid upon the table; that any statement on this item appear at the appropriate place in the Record.

The PRESIDING OFFICER. Is there objection to the unanimous-consent request?

Hearing none, it is so ordered.

The bill (H.R. 5481) and was deemed to have been read three times and passed.

Mr. FORD. Mr. President, this program was initiated in the 1987 airport and airway legislation, and was extended twice while the FAA accommodated some of the concerns over the administration of the program. Throughout the short history of the demonstration program, there were many complaints from the regulated community about the FAA procedures, and about the role of the FAA as judge and jury. So in 1990, when we reauthorized the program for another 2 years, we also asked the Administrative Conference of the United States [ACUS] to review the program, and to advise us if there were a better way to administer it.

The ACUS gave us a report in January 1992, which basically said that the FAA's handling of the program was satisfactory; however, there was a perception that the FAA had a conflict of interest in its role of operating the air traffic control system and enforcing violations of that system. For that reason, and in the absence of any agreement between regulated parties and the agency, ACUS recommended the transfer of adjudication of cases involving pilots, and flight engineers to the NTSB.

H.R. 5481 incorporates the ACUS recommendation and has some additional procedural safeguards. It also includes the transfer of appeals for mechanics and repairmen. These cases represent only about 12 percent of all civil penalty cases. I did this in the interest of consistent treatment of airline employees certificated by the FAA. The bill would also make the program permanent, but would retain the $50,000 cap on penalties.

I ask my colleagues to join with me in passing this bill, and giving the FAA and the NTSB the authority those agencies need to do the job.

ORDERS FOR TUESDAY, SEPTEMBER 8, 1992

Mr. FORD. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand adjourned until 9 a.m., Tuesday, September 8; and that, when the Senate reconvenes on Tuesday, September 8, the Journal of proceedings be deemed to have been approved to date; the call of the calendar be waived, and no motions or resolutions come over under the rule; that the morning hour be deemed to have expired; I further ask unanimous consent that following the time for the two leaders; there then be a period for morning business, not to extend beyond 9:30 a.m. with Senators permitted to speak therein for up to 5 minutes each; that at the conclusion of morning business, the majority leader be recognized to make a motion to proceed to S. 640, pursuant to the previous order of June 26; that once the motion is made, the Senate proceed into executive session to consider the nomination of Edward Carnes, under the terms and limitations of a previous agreement; that the Senate stand in recess on Tuesday from 12:30 to 2:15 p.m., for the respective party conferences;

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

PROGRAM

Mr. FORD. Mr. President, it will be the majority leader's intention at 2:15 on the September 8 to resume consideration of the motion to proceed for a period of 2 hours, and at 4:15 p.m. it will

be the intention of the majority leader to proceed to the VA–HUD appropriations bill under the previous order, after a cloture motion has been filed on the motion to proceed to S. 640.

ADJOURNMENT UNTIL TUESDAY, SEPTEMBER 8, 1992 AT 9 A.M.

Mr. FORD. Mr. President, if there is no further business to come before the Senate today, I move that the Senate stand in adjournment in accordance with Senate Concurrent Resolution 135 until Tuesday, at 9 a.m., September 8, 1992.

The motion was agreed to; and at 8:34 p.m., the Senate adjourned until Tuesday, September 8, 1992, at 9 a.m.

NOMINATIONS

Executive nominations received by the Senate August 12, 1992:

DEPARTMENT OF STATE

Lois L. Evans, of New York, to be the Representative of the United States of America on the Economic and Social Council of the United Nations, with the rank of Ambassador.

John J. Maresca, of Connecticut, a Career Member of the Senior Foreign Service, Class of Minister-Counselor, for the rank of Ambassador during his tenure of service as Special Cyprus Coordinator.

ADMINISTRATIVE CONFERENCE OF THE UNITED STATES

Brian C. Griffin, of Oklahoma, to be Chairman of the Administrative Conference of the United States for the term of 5 years, vice Marshall Jordan Breger.

CONFIRMATIONS

Executive nomination confirmed by the Senate, August 12, 1992:

THE JUDICIARY

CAROLYN P. CHIECHI, OF MARYLAND, TO BE A JUDGE OF THE U.S. TAX COURT FOR A TERM EXPIRING 15 YEARS AFTER SHE TAKES OFFICE.

DAVID LARO, OF MICHIGAN, TO BE A JUDGE OF THE U.S. TAX COURT FOR A TERM EXPIRING 15 YEARS AFTER HE TAKES OFFICE.

DEPARTMENT OF COMMERCE

JOSE ANTONIO VILLAMIL, OF FLORIDA, TO BE UNDER SECRETARY OF COMMERCE FOR ECONOMIC AFFAIRS.

MARY JO JACOBI, OF MISSISSIPPI, TO BE AN ASSISTANT SECRETARY OF COMMERCE.

DEFENSE NUCLEAR FACILITIES SAFETY BOARD

JOSEPH J. DINUNNO, OF MARYLAND, TO BE A MEMBER OF THE DEFENSE NUCLEAR FACILITIES SAFETY BOARD FOR THE REMAINDER OF THE TERM EXPIRING OCTOBER 18, 1995.

DEPARTMENT OF STATE

ANTHONY CECIL EDEN QUAINTON, OF THE DISTRICT OF COLUMBIA, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF CAREER MINISTER, TO BE ASSISTANT SECRETARY OF STATE FOR DIPLOMATIC SECURITY.

RUTH A. DAVIS, OF GEORGIA, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF MINISTER-COUNSELOR, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE REPUBLIC OF BENIN.

PATRICIA DIAZ DENNIS, OF VIRGINIA, TO BE ASSISTANT SECRETARY OF STATE FOR HUMAN RIGHTS AND HUMANITARIAN AFFAIRS.

MACK F. MATTINGLY, OF GEORGIA, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE REPUBLIC OF SEYCHELLES.

HARRIET WINSAR ISOM, OF OREGON, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF MINISTER-COUNSELOR, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE REPUBLIC OF CAMEROON.

INTERNATIONAL MONETARY FUND

ALAN GREENSPAN, OF NEW YORK, TO BE U.S. ALTERNATE GOVERNOR FOR THE INTERNATIONAL MONETARY FUND FOR A TERM OF 5 YEARS.

RAILROAD RETIREMENT BOARD

GLEN L. BOWER, OF ILLINOIS, TO BE A MEMBER OF THE RAILROAD RETIREMENT BOARD FOR A TERM OF 5 YEARS FROM AUGUST 29, 1992.

JEROME F. KEVER, OF ILLINOIS, TO BE A MEMBER OF THE RAILROAD RETIREMENT BOARD FOR THE REMAINDER OF THE TERM EXPIRING AUGUST 28, 1993.

VIRGIL M. SPEAKMAN, JR., OF OHIO, TO BE A MEMBER OF THE RAILROAD RETIREMENT BOARD FOR THE REMAINDER OF THE TERM EXPIRING AUGUST 28, 1994.

STATE JUSTICE INSTITUTE

JOHN F. DAFFRON, JR., OF VIRGINIA, TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE STATE JUSTICE INSTITUTE FOR A TERM EXPIRING SEPTEMBER 17, 1994.

TERRENCE B. ADAMSON, OF GEORGIA, TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE STATE JUSTICE INSTITUTE FOR A TERM EXPIRING SEPTEMBER 17, 1994.

DEPARTMENT OF JUSTICE

EDWARD F. REILLY, OF KANSAS, TO BE A COMMISSIONER OF THE U.S. PAROLE COMMISSION FOR THE REMAINDER OF THE TERM EXPIRING NOVEMBER 1, 1997.

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.

THE JUDICIARY

ALVIN A. SCHALL, OF MARYLAND, TO BE U.S. CIRCUIT JUDGE FOR THE FEDERAL CIRCUIT.

ILANA DIAMOND ROVNER, OF ILLINOIS, TO BE U.S. CIRCUIT JUDGE FOR THE SEVENTH CIRCUIT.

JOHN G. HEYBURN II, OF KENTUCKY, TO BE U.S. DISTRICT JUDGE FOR THE WESTERN DISTRICT OF KENTUCKY.

LINDA H. MCLAUGHLIN, OF CALIFORNIA, TO BE U.S. DISTRICT JUDGE FOR THE CENTRAL DISTRICT OF CALIFORNIA.

ALFRED V. COVELLO, OF CONNECTICUT, TO BE U.S. DISTRICT JUDGE FOR THE DISTRICT OF CONNECTICUT.

CAROL E. JACKSON, OF MISSOURI, TO BE U.S. DISTRICT JUDGE FOR THE EASTERN DISTRICT OF MISSOURI.

JOSEPH A. DICLERICO, JR., OF NEW HAMPSHIRE, TO BE U.S. DISTRICT JUDGE FOR THE DISTRICT OF NEW HAMPSHIRE.

MICHAEL J. MELLOY, OF IOWA, TO BE U.S. DISTRICT JUDGE FOR THE NORTHERN DISTRICT OF IOWA.

DEPARTMENT OF TRANSPORTATION

ROBERT E. MARTINEZ, OF NEW JERSEY, TO BE ASSOCIATE DEPUTY SECRETARY OF TRANSPORTATION.

IN THE MARINE CORPS

The following named officer, under the provisions of title 10, United States Code, section 601, for assignment to a position of importance and responsibility as follows:

To be lieutenant general

Maj. Gen. Robert A. Tiebout [redacted] USMC.

The following named officer to be placed on the retired list under the provisions of title 10, United States Code, section 1370:

To be general

Gen. John R. Daily, [redacted] USMC.

The following named officer for appointment as Assistant Commandant of the Marine Corps under title 10, United States Code, section 5044.

To be general

Lt. Gen. Walter E. Boomer [redacted] USMC.

The following named officer, under the provisions of title 10, United States Code, section 601, for assignment to a position of importance and responsibility as follows:

To be lieutenant general

Maj. Gen. Charles C. Krulak [redacted] USMC.

IN THE AIR FORCE

The following officer for appointment in the U.S. Air Force to the grade of brigadier general under the provisions of Section 624, Title 10 of the United States Code:

To be brigadier general

Col. Eugene A. Lupia, [redacted] Regular Air Force.

The following named officer for appointment in the U.S. Air Force to the grade of brigadier general under the provisions of title 10, United States Code, section 624:

To be brigadier general

Col. Thomas J. Lennon, [redacted] Regular Air Force.

THE FOLLOWING OFFICERS FOR APPOINTMENT IN THE RESERVE OF THE AIR FORCE TO THE GRADE INDICATED, UNDER THE PROVISIONS OF SECTIONS 593, 8218, AND 8373, TITLE 10, UNITED STATES CODE:

To be major general

BRIG. GEN. GARY L. EICHHORN, [redacted] AIR FORCE RESERVE.

BRIG. GEN. JACQUES P. KLEIN, [redacted] AIR FORCE RESERVE.

BRIG. GEN. THOMAS L. NEUBERT, [redacted] AIR FORCE RESERVE.

BRIG. GEN. JAMES E. SHERRARD III, [redacted] AIR FORCE RESERVE.

BRIG. GEN. DAVID R. SMITH, [redacted] AIR FORCE RESERVE.

BRIG. GEN. JERRY E. WHITE, [redacted] AIR FORCE RESERVE.

To be brigadier general

COL. JOHN A. BRADLEY, [redacted] AIR FORCE RESERVE.

COL. DONALD W. BRYAN, [redacted] AIR FORCE RESERVE.

COL. WILLIAM A. COHEN, [redacted] AIR FORCE RESERVE.

COL. JAMES J. KENNEDY III, [redacted] AIR FORCE RESERVE.

COL. MICHAEL R. LEE, [redacted] AIR FORCE RESERVE.

COL. ROBERT A. NESTER, [redacted] AIR FORCE RESERVE.

COL. REESE R. NEILSEN, [redacted] AIR FORCE RESERVE.

COL. RALPH H. OATES, [redacted] AIR FORCE RESERVE.

COL. HERBERT P. RIESSEN, [redacted] AIR FORCE RESERVE.

COL. JAMES E. SEHORN, [redacted] AIR FORCE RESERVE.

COL. VIRGIL J. TONEY, JR., [redacted] AIR FORCE RESERVE.

COL. DONALD K. WOODMAN, [redacted] AIR FORCE RESERVE.

THE FOLLOWING OFFICERS FOR APPOINTMENT IN THE RESERVE OF THE AIR FORCE TO THE GRADE INDICATED, UNDER THE PROVISIONS OF SECTIONS 593, 8218, 8373, AND 8374, TITLE 10, UNITED STATES CODE:

To be major general

MAJ. GEN. HUGH L. COX III, USAF (RET), [redacted] AIR NATIONAL GUARD OF THE UNITED STATES.

BRIG. GEN. CHARLES M. BUTLER, [redacted] AIR NATIONAL GUARD OF THE UNITED STATES.

BRIG. GEN. NELSON E. DURGIN, [redacted] AIR NATIONAL GUARD OF THE UNITED STATES.

To be brigadier general

COL. ALLEN W. BOONE, [redacted] AIR NATIONAL GUARD OF THE UNITED STATES.

COL. BRUCE G. BRAMLETTE, [redacted] AIR NATIONAL GUARD OF THE UNITED STATES.

COL. RENDELL F. CLARK, JR. [redacted] AIR NATIONAL GUARD OF THE UNITED STATES.

COL. JAMES R. HENDRICKSON, [redacted] AIR NATIONAL GUARD OF THE UNITED STATES.

COL. JACK D. KOCH, [redacted] AIR NATIONAL GUARD OF THE UNITED STATES.

COL. ALLEN M. MIZUMOTO, [redacted] AIR NATIONAL GUARD OF THE UNITED STATES.

COL. GARY P. MORGAN, [redacted] AIR NATIONAL GUARD OF THE UNITED STATES.

COL. C.D. PAYNE, [redacted] AIR NATIONAL GUARD OF THE UNITED STATES.

COL. ROBERT L. PRIVETT, [redacted] AIR NATIONAL GUARD OF THE UNITED STATES.

COL. XEL SANT'ANNA, [redacted] AIR NATIONAL GUARD OF THE UNITED STATES.

COL. LORAN C. SCHNAIDT, [redacted] AIR NATIONAL GUARD OF THE UNITED STATES.

COL. FRED R. SLOAN, [redacted] AIR NATIONAL GUARD OF THE UNITED STATES.

COL. JOHN H. SMITH, [redacted] AIR NATIONAL GUARD OF THE UNITED STATES.

COL. ALBERT H. WILKENING, [redacted] AIR NATIONAL GUARD OF THE UNITED STATES.

COL. RICHARD B. YULES, [redacted] AIR NATIONAL GUARD OF THE UNITED STATES.

ARMY

THE FOLLOWING NAMED OFFICER FOR REAPPOINTMENT TO THE GRADE OF LIEUTENANT GENERAL WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, UNITED STATES CODE, SECTION 601(A):

To be lieutenant general

LT. GEN. PAUL G. CERJAN [redacted] 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. DANIEL R. SCHROEDER, [redacted] U.S. ARMY.

THE FOLLOWING-NAMED OFFICER FOR APPOINTMENT AS THE SURGEON GENERAL, UNITED STATES ARMY, IN

THE GRADE INDICATED, UNDER THE PROVISIONS OF TITLE 10, UNITED STATES CODE, SECTION 3036:

To be surgeon general

To be lieutenant general

MAJ. GEN. ALCIDE M. LANOUE, xxx-xx-xx... U.S. ARMY.

THE FOLLOWING 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), AND FOR APPOINTMENT AS CHIEF OF ENGINEERS UNDER TITLE 10, SECTION 3036:

To be chief of engineers

To be lieutenant general

MAJ. GEN. ARTHUR E. WILLIAMS xxx-xx-xx... 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. WILLIAM H. FORSTER xxx-xx-xx... U.S. ARMY.

THE FOLLOWING NAMED OFFICER FOR REAPPOINTMENT TO THE GRADE OF LIEUTENANT GENERAL WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, UNITED STATES CODE, SECTION 601(A):

To be lieutenant general

LT. GEN. PETER A. KIND xxx-xx-xx... 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. LEO J. PIGATY xxx-xx-xx... U.S. ARMY.

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. HANSFORD T. JOHNSON, 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. HOWELL M. ESTES, III xxx-xx-xxxx U.S. AIR FORCE.

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:

To be general

LT. GEN. RONALD R. FOGLEMAN, xxx-xx-xxxx U.S. AIR FORCE.

IN THE NAVY

THE FOLLOWING-NAMED CAPTAINS IN THE STAFF CORPS OF THE U.S. NAVY FOR PROMOTION TO THE PERMANENT GRADE OF REAR ADMIRAL (LOWER HALF), PURSUANT TO TITLE 10, UNITED STATES CODE, SECTION 624, SUBJECT TO THE QUALIFICATIONS THEREFOR AS PROVIDED BY LAW:

MEDICAL CORPS

To be rear admiral (lower half)

CAPT. DAVID SIDNEY FROST xxx-xx-xx... U.S. NAVY.

SUPPLY CORPS

To be rear admiral (lower half)

CAPT. ERNEST ALEXANDER ELLIOT, xxx-xx-xxxx U.S. NAVY.
CAPT. RALPH MELVIN MITCHELL, JR. xxx-xx-xxxx U.S. NAVY.

CIVIL ENGINEER CORPS

To be rear admiral (lower half)

CAPT. THOMAS ALLEN DAMES xxx-xx-xxxx U.S. NAVY.
CAPT. ROBERT MICHAEL GALLEN xxx-xx-xx... U.S. NAVY.

MEDICAL SERVICE CORPS

To be rear admiral (lower half)

CAPT. STEPHEN TODD FISHER xxx-xx-xx... U.S. NAVY.

THE FOLLOWING NAMED CAPTAINS OF THE RESERVE OF THE U.S. NAVY FOR PERMANENT PROMOTION TO THE GRADE OF REAR ADMIRAL (LOWER HALF) IN THE LINE AND STAFF CORPS, AS INDICATED, PURSUANT TO THE PROVISIONS OF TITLE 10, UNITED STATES CODE, SECTION 5912:

UNRESTRICTED LINE OFFICER

To be rear admiral (lower half)

CAPT. KENNETH LEROY FISHER, xxx-xx-xxxx U.S. NAVAL RESERVE.
CAPT. JOHN FRANCIS PADDOCK, JR., xxx-xx-xxxx U.S. NAVAL RESERVE.
CAPT. TOM ALLEN TRAUTWEIN, xxx-xx-xxxx U.S. NAVAL RESERVE.
CAPT. GEORGE DENNIS VAUGHAN, xxx-xx-xx... U.S. NAVAL RESERVE.

UNRESTRICTED LINE (TAR) OFFICER

To be rear admiral (lower half)

CAPT. FRANCIS WILLIAM HARNESS xxx-xx-xxxx U.S. NAVAL RESERVE.

ENGINEERING DUTY OFFICER

To be rear admiral (lower half)

CAPT. ROGER GEORGE GILBERTSON, xxx-xx-xxxx U.S. NAVAL RESERVE.

DENTAL CORPS OFFICER

To be rear admiral (lower half)

CAPT. JAMES CONLEY YEARGIN, xxx-xx-xxxx U.S. NAVAL RESERVE.

JUDGE ADVOCATE GENERAL'S CORPS OFFICER

To be rear admiral (lower half)

CAPT. FRED STEPHEN GLASS xxx-xx-xxxx U.S. NAVAL RESERVE.

SUPPLY CORPS OFFICER

To be rear admiral (lower half)

CAPT. ROBERT CAMERON CRATES, xxx-xx-xx... U.S. NAVAL RESERVE.
CAPT. ROBERT COLE STACK, xxx-xx-xxxx U.S. NAVAL RESERVE.

THE FOLLOWING NAMED OFFICER FOR REAPPOINTMENT TO THE GRADE OF VICE ADMIRAL WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, UNITED STATES CODE, SECTION 601:

To be vice admiral

VICE ADM. MICHAEL C. COLLEY, xxx-xx-x... U.S. NAVY.

THE FOLLOWING NAMED REAR ADMIRALS (LOWER HALF) OF THE RESERVE OF THE U.S. NAVY FOR PERMANENT PROMOTION TO THE GRADE OF REAR ADMIRAL IN THE STAFF CORPS, AS INDICATED, PURSUANT TO THE PROVISIONS OF TITLE 10, UNITED STATES CODE, SECTION 5912:

MEDICAL CORPS OFFICER

To be rear admiral

REAR ADM. (1H) DONALD ENGENE ROY xxx-xx-xxxx, /2105, U.S. NAVAL RESERVE.

SUPPLY CORPS OFFICER

REAR ADM. (1H) FRANCIS WILLIAM KEANE xxx-xx-xxxx, /3105, U.S. NAVAL RESERVE.

THE FOLLOWING-NAMED REAR ADMIRALS (LOWER HALF) IN THE STAFF CORPS OF THE U.S. NAVY FOR PROMOTION TO THE PERMANENT GRADE OF REAR ADMIRAL, PURSUANT TO TITLE 10, UNITED STATES CODE, SECTION 624, SUBJECT TO QUALIFICATIONS THEREFOR AS PROVIDED BY LAW:

MEDICAL CORPS

To be rear admiral

REAR ADM. HAROLD MARTIN KOENIG, xxx-xx-xxxx U.S. NAVY.
REAR ADM. WILLIAM JAMES MCDANIEL, xxx-xx-xxxx U.S. NAVY.

SUPPLY CORPS

To be rear admiral

REAR ADM. PETER ALBERT BONDI, xxx-xx-xx... U.S. NAVY.
REAR ADM. JAMES PATRICK DAVIDSON, xxx-xx-xxxx U.S. NAVY.

THE FOLLOWING-NAMED REAR ADMIRALS (LOWER HALF) IN THE LINE OF THE U.S. NAVY FOR PROMOTION TO THE PERMANENT GRADE OF REAR ADMIRAL, PURSUANT TO TITLE 10, UNITED STATES CODE, SECTION 624, SUBJECT TO QUALIFICATIONS THEREFOR AS PROVIDED BY LAW:

UNRESTRICTED LINE OFFICER

To be rear admiral

REAR ADM. (LH) BRENT MARTIN BENNITT, xxx-xx-xx... U.S. NAVY.
REAR ADM. (LH) JON SUBER COLEMAN, xxx-xx-xxxx U.S. NAVY.
REAR ADM. (LH) WILLIAM ANTHONY EARNER, JR., xxx-xx-x... U.S. NAVY.
REAR ADM. (LH) GEORGE WILLIAMS EMERY xxx-xx-xxxx, U.S. NAVY.
REAR ADM. (LH) DAVID MAXWELL GOEBEL xxx-xx-xxxx, U.S. NAVY.
REAR ADM. (LH) DOUGLAS JEFFREY KATZ xxx-xx-xxxx, U.S. NAVY.
REAR ADM. (LH) JAMES ANTHONY LAIR, xxx-xx-xxxx U.S. NAVY.
REAR ADM. (LH) THOMAS JOSEPH LOPEZ xxx-xx-xxxx U.S. NAVY.
REAR ADM. (LH) LARRY ROY MARSH, xxx-xx-xxxx U.S. NAVY.
REAR ADM. (LH) JOHN DAVIS PEARSON, xxx-xx-xxxx U.S. NAVY.
REAR ADM. (LH) MERRILL WYTHE RUCK, xxx-xx-xx... U.S. NAVY.
REAR ADM. (LH) GEORGE RUDOLPH STERNER xxx-xx-xx... U.S. NAVY.
REAR ADM. (LH) PAUL EDWARD TOBIN, JR. xxx-xx-xxxx, U.S. NAVY.

THE FOLLOWING NAMED OFFICER FOR REAPPOINTMENT TO THE GRADE OF VICE ADMIRAL WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, UNITED STATES CODE, SECTION 601:

To be vice admiral

VICE ADM. MICHAEL P. KALLERES, U.S. NAVY xxx-xx-xx...

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 vice admiral

VICE ADM. JOHN A. BALDWIN, JR., U.S. NAVY xxx-xx-xxxx

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 vice admiral

VICE ADM. FRANCIS R. DONOVAN, U.S. NAVY xxx-xx-x...

THE FOLLOWING NAMED REAR ADMIRALS (LOWER HALF) OF THE RESERVE OF THE U.S. NAVY FOR PERMANENT PROMOTION TO THE GRADE OF REAR ADMIRAL IN THE LINE, AS INDICATED, PURSUANT TO THE PROVISIONS OF TITLE 10, UNITED STATES CODE, SECTION 5912:

To be rear admiral

UNRESTRICTED LINE OFFICER

REAR ADM. (LH) JOHN TWOHEY NATTER, xxx-xx-xxxx U.S. NAVAL RESERVE.

AEROSPACE ENGINEERING DUTY OFFICER

REAR ADM (LH) KENNETH PAUL MANNING, xxx-xx-xx... U.S. NAVAL RESERVE.

THE FOLLOWING NAMED OFFICER FOR REAPPOINTMENT TO THE GRADE OF VICE ADMIRAL WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, UNITED STATES CODE, SECTION 601:

To be vice admiral

VICE ADM. ROBERT K. U. KIHUNE, U.S. NAVY xxx-xx-xx...

IN THE ARMY

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT TO THE GRADE OF LIEUTENANT GENERAL WHILE ASSIGNED TO A POSTION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, UNITED STATES CODE, SECTION 601(A):

To be lieutenant general

MAJ. GEN. DONALD M. LIONETTI, xxx-xx-xx... U.S. ARMY.

IN THE AIR FORCE

THE FOLLOWING NAMED ASTRONAUT OF THE AIR FORCE FOR PERMANENT APPOINTMENT TO THE RESERVE GRADE OF COLONEL UNDER ARTICLE II, SECTION 2, CLAUSE 2 OF THE CONSTITUTION.

LT. COL. FRANCES A. GAFFNEY xxx-xx-xx...

THE FOLLOWING NAMED ASTRONAUT OF THE AIR FORCE FOR PERMANENT APPOINTMENT TO THE RESERVE GRADE OF COLONEL UNDER ARTICLE II, SECTION 2, CLAUSE 2 OF THE CONSTITUTION.

LT. COL. CHARLES L. VEACH xxx-xx-x...

AIR FORCE NOMINATIONS BEGINNING CRAIG R. BAKER, AND ENDING GREGORY P. SARAKATSANNIS, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON JULY 1, 1992.

AIR FORCE NOMINATIONS BEGINNING MAJ. JAMES D. ENGLISH, xxx-xx-xx... AND ENDING MAJ. BARBARA J. NELSON, xxx-xx-xxxx WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON AUGUST 7, 1992.

AIR FORCE NOMINATIONS BEGINNING ANDREA D. BEGEL, AND ENDING STEVEN D. WILLIAMS, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON AUGUST 7, 1992.

IN THE ARMY

ARMY NOMINATIONS BEGINNING FRANK J. ABBOTT, AND ENDING 204, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON MARCH 18, 1992.

ARMY NOMINATIONS BEGINNING ANDERS B. AADLAND, AND ENDING 155X, WHICH NOMINATIONS WERE RECEIVED

BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON JUNE 17, 1992.

ARMY NOMINATIONS BEGINNING EARL P. EWING, AND ENDING ROGER D. WILLIAMS, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON JULY 1, 1992.

ARMY NOMINATIONS BEGINNING RICHARD L. AGEE, AND ENDING LYDIA R. ZAGER, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON JULY 20, 1992.

ARMY NOMINATIONS BEGINNING SAMUEL J. ANGULO, AND ENDING JOHN S. YOUNG, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON JULY 2, 1992.

ARMY NOMINATIONS BEGINNING LARR* ADAMSTHOMPSON, AND ENDING TIMOTHY* WILLOUGHBY, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON JULY 2, 1992.

ARMY NOMINATIONS BEGINNING PHILLIP L. ADAY, AND ENDING JOSHUA M. ZIMMERMAN, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON AUGUST 4, 1992.

ARMY NOMINATIONS BEGINNING JOEL E. MILLER, AND ENDING *THOMAS P. WINKLER, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON AUGUST 7, 1992.

ARMY NOMINATIONS BEGINNING LANDRY K. APPLEBY, AND ENDING DUANE R. OPP, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON AUGUST 7, 1992.

ARMY NOMINATIONS BEGINNING ALFRED F. LIVAUDAIS, AND ENDING *SHERRI L. MITCHELL WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON AUGUST 7, 1992.

IN THE MARINE CORPS

THE FOLLOWING NAMED OFFICERS OF THE MARINE CORPS FOR PERMANENT APPOINTMENT TO THE GRADE OF COLONEL UNDER TITLE 10, UNITED STATES CODE, SECTION 624:

GARY W ANDERSON, xx...
RAYFEL M BACHILLER, xx...
GEORGE H BENSKIN, III, xx...
BRUCE E BRUNN, xx...
RICHARD W CHRISTIANSEN, xx...
ELIGAH D CLARK, JR., xx...
JAMES K COBB, xx...
JOHN R COHN, xx...
LARRY P COLE, xx...
GARY W COLLENBORNE, xx...
JOHN R GARVIN, xx...
WILLIAM M GIVEN, III, xx...
RYAN P GOODELL, xx...
JOHN M HIMES, xx...
HAROLD L INABINET, xx...
ALVIN W KELLER, JR., xx...
JOHN B MEAGHER, xx...
JOHN J MOYER, xx...
MICHAEL R NANCE, xx...
JOHN C OSBORNE, xx...
RICHARD L OWEN, JR., xx...
PAUL F ROQUES, JR., xx...
LAURENCE E SIMPSON, xx...
CHARLES O SKIPPER, xx...
LINDEN L SPARROW, xx...
BONNI L SUTHERLAND, xx...
JAMES E VESELY, xx...
WILLIAM J WESLEY, xx...
FRANCES C WILSON, xx...

THE FOLLOWING NAMED OFFICERS OF THE MARINE CORPS FOR PERMANENT APPOINTMENT TO THE GRADE OF LIEUTENANT COLONEL UNDER TITLE 10, UNITED STATES CODE, SECTION 624:

DAVID W. ANDERSEN, xx...
FREDERICK E. ANDERSON, JR., x...
DENNIS T. BARTELS, xx...
JOHN A. BASS, xx...
GEORGE R. BEDAR, xx...
EDDIE BICKHAM, xx...
ROBERT J. BOZELLI, xx...
GREGORY K. BRICKHOUSE, xx...
GERMAIN B. BROECKERT, JR., xx...
LARRY K. BROWN, JR., xx...
JOHN R. BUCHANAN, xx...
STEVEN BUSCH, xx...
MARIO V. CARMO, x...
FREDERICK E. CHASNEY, xx...
HENRY J. COBLE, xx...
JAMES E. CONNICK, xx...
RODNEY M. COTTEN, xx...
RODELL C. DARLING, xx...
THOMAS V. DEMARS, JR., xx...
WAYNE T. FLEMING, xx...
JOHN W. FOLEY, xx...
GREGORY H. FREED, xx...
LEE W. FREUND, xx...
MICHAEL A. GALT, x...
GARY A. GIACOMA, x...
MICHAEL J. GODFREY, xx...
TOMMY S. GRAY, 8876
CHARLES T. HAYES, xx...
JOHN T. HENNESSEY, xx...
ALDEN E. HINGLE, JR., x...
DAVID T. ISRAEL, xx...
ANTHONY L. JACKSON, xx...
DWIGHT W. JONES, xx...
WILLIAM R. KELLNER, JR., xx...
LEELLEN KRATOCHVIL, xx...
JOSEPH P. KUSIOR, JR., xx...
STEPHEN C. LAMBETH, xx...
RANDALL W. LARSEN, xx...
ROBERT R. LOGAN, xx...
ELIZABETH K. MCGILLICUDDY, xx...
JAMES D. MCLELLAN, x...
RANDALL D. MCMAHON, xx...
MICHAEL M. OCONNOR, xx...
PHILIP S. PARKHURST, xx...
REYNOLDS B. PEELE, xx...
GARY N. PETERS, xx...
FRANK L. POTE, III, xx...
LOREN D. PRIMMER, JR., xx...
JONATHAN T. RYBERG, xx...
DUANE R. SCHATTLE, xx...
MICHAEL W. SMYTH, xx...
LOUIS P. SPOSATO, JR., xx...
BRADLEY A. STEPHAN, xx...
CHARLES M. TYE, xx...
JANICE M. VANCAMP, xx...
DUANE VANFLEET, JR., xx...
THOMAS D. WALDHAUSER, xx...
MICHAEL J. WARREN, xx...
DANIEL A. WEHRLE, xx...
KENNETH G. WILLIAMS, x...
RUSSELL C. WOODY, xx...
STEPHEN M. YOUNG, xx...

THE FOLLOWING NAMED OFFICERS OF THE MARINE CORPS FOR PERMANENT APPOINTMENT TO THE GRADE OF MAJOR UNDER TITLE 10, UNITED STATES CODE, SECTION 624:

DONALD J. ANDERSON, xx...
PHILLIP J. ANTONINO, xx...
PATRICK E. BAILEY, x...
LAURENT O. BAKER, xx...
THOMAS M. BANE, xx...
JOHN S. BENNETT, x...
PAUL D. BENNETT, x...
DAVID H. BERGER, xx...
CHRISTOPHER E. BLANCHARD, xx...
JOSHUA J. BOCCHINO, xx...
JEFFREY W. BOLANDER, xx...
CHRISTOPHER M. BOURNE, xx...
JOHN H. BOWER, JR., xx...
RONALD J. BUIKEMA, xx...
STEVEN W. BUSBY, xx...
JOHN M. CARRETTI, xx...
PAUL C. CASTO, xx...
EDWARD R. CAWTHON, x...
KERRY A. CERNY, xx...
GREG R. CLARE, xx...
TODD COKER, xx...
CHRISTOPHER C. CONLIN, xx...
MARSHALL I. CONSIDINE, xx...
RICHARD D. CURRAN, xx...
PAUL S. DAUGHTRIDGE, xx...
RODNEY L. DEARTH, xx...
ENRICO G. DEGUZMAN, xx...
BRUCE D. DONOVAN, xx...
BRENT A. DOUGLAS, xx...
STEVEN W. DOWLING, xx...
JOHN D. DOWNEY, xx...
CHARLES S. DUNSTON, xx...
WILLIAM E. DYE, xx...
THOMAS D. ELLIS, x...
PETER J. FERRARO, xx...
DAVID C. FUQUEA, xx...
JAMES L. GOUGH, xx...
RAYBURN G. GRIFFITH, xx...
JOHN D. HARRIGAN, xx...
DALE B. HAYWARD, xx...
DAVID J. HEAD, x...
BRIAN J. HEARNSBERGER, xx...
RANDALL A. HODGE, xx...
DEBRA L. HOFSTETTER, xx...
STEVEN D. HOGG, xx...
ROBIN R. HYDE, xx...
PATRICK J. KANEWSKE, xx...
BILLY D. KASNEY, xx...
BRUCE G. KESSELRING, xx...
RICHARD W. KOENEKE, xx...
ROGER L. KRAFT, JR., xx...
JOHN B. LANG, xx...
STEPHEN J. LINDER, xx...
CHARLES E. LOCKE, JR., xx...
JOHN P. LOPEZ, xx...
JUERGEN M. LUKAS, x...
GARY W. MANLEY, xx...
JONATHAN W. MARTIN, x...
DAVID E. MARVIN, xx...
JAMES C. MATTIE, xx...
FRANKLIN F. MCCALLISTER, x...
JEFFREY T. MCFARLAND, xx...
DANNY L. MELTON, xx...
ROBERT L. MOORE, JR., xx...
KEVIN P. MURPHY, xx...
MARK S. MURPHY, xx...
DONALD G. NEAL, xx...
DANNY P. ODOM, xx...
ISMAEL ORTIZ, JR., xx...
JOHN M. OWENS, x...
JOSEPH M. PERRY, xx...
RICHARD S. POMARICO, xx...
LOUIS N. RACHAL, xx...
JACKY E. RAY, xx...
RICHARD M. RAYFIELD, xx...
MATTHEW D. REDFERN, xx...
RAYMOND G. REGNER, JR., xx...
THOMAS H. RICH, xx...
DANIEL S. ROGERS, xx...
MICHAEL E. RUDOLPH, xx...
JOSEF E. RYBERG, xx...
HIDEO SATO, xx...
RICHARD A. SCHAFER, xx...
ROSS H. SCHWALM, xx...
TERENCE E. SHEAHAN, xx...
GREGORY P. SIESEL, xx...
DOUGLAS S. SIMMANG, xx...
JAMES R. SINNOTT, xx...
GEORGE S. SLEY, JR., xx...
JAMES C. SMITH, xx...
DUANE T. SPURRIER, xx...
JOHN C. STRADLEY, JR., xx...
DARRYL STRINGFELLOW, xx...
CALVIN F. SWAIN, JR., xx...
RORY E. TALKINGTON, xx...
MARK H. TANZLER, xx...
JOHN D. THOMAS, JR., xx...
GREGORY S. TYSON, xx...
WILLIAM J. VIETS, xx...
ERIC M. WALTERS, x...
JOHN R. WILKERSON, xx...
FIELDING L. WILLIAMS, xx...
KEN YOKOSE, xx...
MONTE R. ZABEN, xx...
FRANCIS S. ZABOROWSKI, xx...

THE FOLLOWING NAMED OFFICERS OF THE MARINE CORPS RESERVE FOR PERMANENT APPOINTMENT TO THE GRADE OF COLONEL UNDER TITLE 10, UNITED STATES CODE, SECTION 5912:

PAUL D. ALLEN, JR., xx...
WILLIAM T. ANDERSON, x...
ROBIN L. AUSTIN, xx...
WILLARD D. BLALOCK, xx...
WILLIAM J. BONNER, JR., xx...
ANDREW B. DAVIS, xx...
PAUL M. FELIX, xx...
DENNIS R. GROSE, xx...
WILLIAM R. HACKNEY, III, xx...
JOHN E. HOWARD, xx...
THOMAS L. KANASKY JR., xx...
FLEET S. LENTZ, JR., xx...
STEPHEN M. MCCARTNEY, xx...
MICHAEL C. OSAJDA, xx...
PERRY L. PICKERT, xx...
EDWARD J. SANDRICK, xx...
GALEN H. SARVINSKI, xx...
DANIEL G. SHILLITO, x...
JAMES D. SHIMP, xx...
JOHN G. SHOUSE, xx...
WALTER L. STARNES, JR., xx...
GLENN W. STICKEL, xx...
THOMAS M. TIGUE, xx...

IN THE NAVY

THE FOLLOWING NAMED COMMANDERS OF THE RESERVE OF THE U.S. NAVY FOR PERMANENT PROMOTION TO THE GRADE OF CAPTAIN IN THE LINE, IN THE COMPETITIVE CATEGORY AS INDICATED, PURSUANT TO PROVISIONS OF TITLE 10, UNITED STATES CODE, SECTION 5912:

UNRESTRICTED LINE OFFICERS

To be captain

LLOYD VERMILLION ABEL
DAVID EARL ADAMS, JR.,
PARKS GLENN ADAMS, JR.
JOHN FELTON ADKISSON
JAMES WILLIAM AIRES, II
RICHARD THOMAS ALEKS
ELROY WAYNE ALESHIRE
JAMES ROBERT ANDRUS
WILLIAM EDWARD ANINOWSKY
DAN LOUIS ARNOLD
CHARLES ALTON AUBREY, JR.,
JAMES ROBERT AYERS
WILLIAM CHESTER BACHMAN, II
WILLIAM CHARLES BAILEY
WILLIE B. BANKS, JR.,
DAVID HUGES BARBER
JOHN CHARLES BEASON
DANIEL ANTHONY BEATTY
SCOTT ARTHUR BECK
ROBERT DANA BENDER
WEBSTER LANCE BENHAM, III
RAYMOND WILLIAM BERARD
LEONARD L. BERGERSEN
PAUL ROBERT BERNANDER
DAVID ROBERT BOWES
CARY SCOTT BRADFORD
EDWARD LEE BRANDT
GORDON DALE BRANNON
THOMAS ROBERT BREESE
MICHAEL FRANCIS BRENNAN
SHARON FILE BRIDWELL
RICHARD CHARLES BRILLA
BRADFORD ALAN BRISBIN
RICHARD WAYNE BROWN
CHARLES FRANK BURLINGAME
DOUGLAS RANDOLPH BURNETT
WILLIAM LOUIS P CADWALLADER
ARTHUR DONALD CALABRO
DANIEL EUGENE CALDWELL, JR.
JACK HENRY CASSADA
DAVID LEWIS CASWELL
LOUIS ANGELO CAVALIERE, JR.
DAVID HUMBERTO CAZARES
MELVIN GLENN CHALOUPKA
DAVID MOHN CHAMBERS, JR.
WILLIAM RENE CHIQUELIN
THOMAS ROBERT CLARKIN, JR.
JOSEPH E CLEMENTS
JOHN WILLIAM CLOSS
DAVID SCOTT COLEMAN
RICHARD EDWARD COLQUITT, JR.
GEORGE TIMLIN CONAWAY, JR.
JAMES LEE COOK
JESSE ALLEN CRACE
JAMES ROBERT CROSSEN
MICHAEL ALEXANDER CROWELL
STEPHEN KENT CUSICK
BRIAN SHEARER DALBY
MARY ANN DALTON
CHARLES RICHARD DAMATO, JR.
SAMUEL ALLAN DAVEY
ACIE WESLEY DAVIS, JR.
ROBERT MILEHAME DAVIS, JR.
JEFFREY STUART DEAN
MARVIN EARL DEAN
WILLIAM DUFOUR DEGOLIAN
JOSE LUIS DELATORRE
NICHOLAS LEE DEMAI
RONALD LEE DIETRICH
NICHOLAS CHARLES DIPIAZZA

GERALD ARTHUR DIXON
TIMOTHY DOBROVOLNY
WILLIAM HENRY DONGES
MICHAEL D DONOVAN
MICHAEL THOMAS DOYLE
DONALD DAVID DRONE
ROLAND CHARLES DUBAY
JAMES MARSHALL EDSON
WILBUR EVERETTE EDWARDS, JR.
DAVID ANDREW ELLEFSON
RUSSELL H ERICKSON
JAMES ARTHUR ESGET
JEFFREY LEE EUTERMOSER
THOMAS WALTER FARRAND
MEAD BOYKIN FERRIS, JR.
MICHAEL FREDERICK FITCH
JOHN BOYD FLEMING, JR.
MICHAEL SEAN FOSTER
GARY LEE FOUST
GERALD WADE FRANKLIN
JOSEPH CLAUDE FRANTZ
RONALD LEROY FRAZEE
LANCE ANDREW FREDERICK
JAMES MICHAEL FREDRICKSON
BARRY DAVALL GABLER
JAMES ERNEST GARIFALOS, II
WILLIAM JOSEPH GARRY
JOHN ARTHUR GILLIES
CHARLES H GILLILAND, JR.
WILLIAM SIMS GILLMOR, JR.
WILLIAM JOSEPH GLADWIN, JR.
ARNOLD MICHAEL GLASSBERG
WILLIAM JOSEPH GRACE
WILLIAM LAMBERT GRAHAM
DAVID GEORGE GRAU
RICHARD HENRY GRAY
DORSEY WYCHERLY GRIFFIN, II
ROBERT DAVID GRIFFITH
HENRY CALHOUN GRISWOLD
EDMUND SAMUEL GROSS
DAVID RALPH GUEBERT
FRANK HENRY GURRY, JR.
ROBERT HAROLD GUTHRIE
BRIAN C HAAGENSEN
THOMAS ANDREW HAHN
WILLIAM LATIMER HALL
HAROLD LEE HALL, JR.
GREGORY RAYMOND HAMELIN
ROBERT LANE HAMILTON
MARSHALL ALAN HANSON
CHARLES GERALD HARDIN, JR.
JOSEPH COLEMAN HARE
MARK HALSEY HARRER
MICHAEL JOSEPH HARRINGTON
JOHN DAVID HARRIS, JR.
CHRISTOPHER EUGENE HEATH
WILLIAM ALEXANDER HEBERT
DAVID MILLAR HEMING
WILLIAM BRUCE HEMPHILL
GEORGE E HENDRICKS
CHARLES BARTON HENKE
RICHARD JAMES HENRY
FERNANDO ANTONIO HERNANDEZ
BRYAN LEE HERRING
JUDSON RICHARD HERTER
RICHARD ALBERT HINNENKAMP
LOUIS MEYER HIRSH
HENRY RICHARD HITPAS, II
WILLIAM EDWARD HOFFMAN
WAYNE ALLEN HOFFMANN
WAYNE DENNIS HOGUE
RICHARD NELSON HOLMES
LLOYD NELSON HOLZ
JAMES HUGH BENNY HOOKS
NICHOLAS FLETCHER HORNEY
WILLIAM GRADY HORTON
JAMES WHITCOMB HOWLETT
CHARLES JAMES HUBBARD
MICHAEL DAVID HUGHES
STEPHEN CULLEN HUTCHINS
STEPHEN DUFF IHRIG
CRAIG ALAN JACOBSEN
DAVID HENRY JESSUP
CHARLES ANTHONY JINDRICH
ARTHUR GARY JOHNSON
LARRY CHARLES JOHNSON
JOHN JOHNSTON, JR.
JONATHAN DAVID KASKIN
JEFFERSON DANIEL KAYLOR, JR.
PATRICK JOHN KEAVENY
DOUGHLAS ALLEN KEES
WILLIAM GEORGE KENNEDY
JAMES MICHAEL KESSLER
JEFFREY BRIAN KIDDER
WILLIAM BRUCE KIKER
MANTON AMBROSE KING
NEIL TILLMAN KINNEAR, III
JAMES JOSEPH KINSELLA, JR.
JAMES EDWARD KIRBY
STEPHEN COLBY KLINK
JOHN ROSS KNIGHT
FREDERICK MARSHALL KOOKER
KEVIN JAMES KRAMER
JOSEPH JOHN KRYGIEL
HENRY JOSEPH KUCINSKI, JR.
DWIGHT RICHARD KUMPF
KRISTEN DICK LANDKAMMER
JAY CLAIR LANGNESS
RAYMOND JOHN LAROSE, JR.
DAVID LAWHON LEE
PATRICK DOUGLAS LEE
JAMES RICHARD LEMON
MICHAEL NELSON LEWIS
TONEY JOE LISTER
TOMMY LYNN LONON
PAUL JEFFREY LOUSTAUNAU
JAMES ROGER LUNDQUIST
FREDERICK WILLIAM LYDIC, III
MARY ETHEL LYONS
JOSEPH CLAYTON MACIE
JEFFREY ALAN MACKEY
DEAN MORGAN MAKINGS
MERLIN ANDREW MALMROS
MICHAEL D MARKS
KENNETH JAMES MARSZALEK
LAURENCE PATRICK MARTIN
JOSEPH ANTHONY MARTUCCI, JR.
DENNIS FREDERICK MASCH
DANIEL STEPHEN MASTAGNI
DENNIS WAYNE MAXFIELD
STEPHEN MARTIN MAY
MICHAEL DOUGLAS MAZZEO
FRANCIS XAVIER MCBRIDE
STEPHEN VINCENT MCBRIEN
ROBERT WAYNE MCCONNELL
RUSSEL ALAN MCCURDY
CHARLES CLAUD MCDANIEL
WILLIAM LESTER MCDONOUGH, JR.
KEVIN JAMES MCELROY
MARY KAY MCMUNN
CHARLES LEE MEANS
THOMAS WILSON MELDRUM, JR.
MARTIN CHARLES MENEZ
JOHN WILLIAM MEURER
KIRK BURTON MICHAEL
JEFFREY CHARLES MILANETTE
ARTHUR GORDON MILBRATH, JR.
JAMES LESLIE BELLIST MILLER
PETER MILLER, JR.
ROBERT PAUL MITCHKE
MICHAEL W MONKHOUSE
SAMUEL MONTOYA
CHRISTOPHER PAUL MORIARTY
RICHARD JOHNSON MORROW
ROBERT GARY MORTON
JAMES CLAYTON MULDER
ROBERT A MULDOON
RICHARD WILLIAM MUNSELL
MICHAEL THOMAS MURPHY
MICHAEL GILMOUR MURRAY
WARREN EUGENE MUSSELMAN
CHARLES RANDALL MYNARD
GEORGE FRANCIS NAFZIGER
JOHN FRANCIS NASH
FREDERICK DAN NELSON
RICHARD ALEXANDER NELSON
ALBERT JOSEPH NEUPAVER
JACK SVEND NIELSEN
WILLIAM NIETO, JR.
MICHAEL EUGENE NOCTON
LOUIS LIONEL NORMAND, JR.
JOHN TEOFIL NOSEK
PAUL ELLSWORTH I OBERDORFER
TIMOTHY DENNIS OCONNELL
JAMES KENNETH OPSAL
CHRISTOPHER OSIER
MARK THEODORE PACHUTA
WILLIAM WARE PALMER, III
THOMAS LEIGHTON PARKE
PHILLIP MORRIS PASCHEL
ROBERT ORIN PASSMORE
RONALD CHARLES PATHMAN
DANIEL J PATTERSON
JAMES HUGH PATTERSON
THOMAS CHARLES PAULING
JOHN WAYNE PECIC
CHARLES EDWARD PEHL
WILLIAM CHAPMAN PENDLETON
MARK DENNIS PERREAULT
RICHARD MICHAEL PETERSON
JOHN S PETREK
JEROME LEONARD PETYKOWSKI
KEITH JOHN PFLUG
JOHN LYNCH PHILLIPS
MARK ALLEN PICKETT
CLARENCE ALBERT PICKETT, III
ROBERT JOHN PIERCE
RALPH PIERNO
LARRY STEVEN PIPES
CRAIG RICHARD PLOSS
BRUCE ARNOLD PLYER
RAYMOND J POTTKOTTER, II
WILLIAM HUGH POWERS
ROGER HOWARD PROBERT
LOUIS FREDERICK RABE
JOHN CHARLES RAINEY
BRUCE WILLIAM RANNEY
RUSSELL ALDEN REED
STEPHEN THOMAS REGISTER
ROBERT WILLIAM REICH
GLENN EMERSON REITINGER
PHILIP RAY RESCH, JR.
CHARLES MICHAEL RESS
DAVID EDWARD RETZKE
WILLIAM EUGENE RICE
ROBERT THOMAS RICH
DONALD WALTER ROBERTSON
STEVEN NOURSE ROBINSON
JOHN MARSH ROGERS
HENRY RENTON ROLPH, JR.
PETER SUTHERLAND ROTHWELL
TIMOTHY JOHN SAMMONS
GARY ALLEN SANDEN
WADE ROWLAND SANDERS
GLENN MICHAEL SAUNDERS
STEVEN LYNN SCHLAKE
ROGER LOUIS SCHNEIDER
ERNEST LYNN SCHOOLFIELD
MARK STEPHENS SCHRAMM
CHARLES WESLEY SCHULTZ
RANDALL CRAIG SCHULTZ
ROBERT WARREN SCOTT, JR.
DOUGLAS LEE SEEGMILLER
RUSSELL SELTENRIGHT
REX WILLIAM SETTLEMOIR
JON SHELLER
MARKE ROBERT SHELLEY
CLYDE YOSHIO SHIRAKI
JOHN ANTHONY SHUMLAS
TITUS SEVERN SIGLER
PHILIP WHITE SIGNOR, III
HENRY MAZYCK SIMONS, III
MARK RAYMOND SIVERS
ROBERT WALTER SKROTSKY
BARRY LEE SMITH
RICHARD FRANKLIN SMITH
ROBERT SPENCER KERR SMITH
THOMAS HUGH SMITH
URBAN EUGENE SMITH
PETER SHERMAN SNELL
WILLIAM DALE SOKEL
KENNETH CHARLES SOSNOWSKI
DOUGLAS JACKSON SOULE
JAMES J. SOUTHERLAND, III
RICHARD THOMAS STEFANIAK
ALEXANDER CRAIG STEPHEN
TIMOTHY FORREST STEVENS
SUSAN MALLICK STEVENSON
ROBERT EDWIN STEWART
MICHAEL GEORGE STRAND
WALTER LEONARD STRICKLAND
ROBERT JAMES STROBBE
MICAHEL LOUIS SUBIN
RAYMOND CHARLES SULLIVAN
MICHAEL BRUCE SUSIK
JOHN LESTER SUTTER
JOHN MICHAEL SVOBODA
JOHN HAMLIN SWAILES
ROBERT EMERSON TAYLOR, JR.
MARK JACQUOT TEMPEST
NICHOLAS JON TENNYSON
JACK RICHARD THOMAS
JOHN RAWLS THOMAS
JOHN THOMAS THOMPSON
KENNETH EARL THOMPSON
ALAN MITCHELL TODD
JOHN LAWRENCE TODD
JOSEPH FRANCIS TOWERS, JR.
STEPHEN BROWN TROUTMAN
ARTHUR GIRARD TROUVILLE
ARTHUR WOODMAN TUFTS
JACKSON CORPENING TUTTLE, II
VINTON KENNETH ULRICH, JR.
THOMAS JOHN UTSCHIG
JON WILLIAM VANDERBOUT
JOHN ORVIS VANNATTA
DAVID CLARK VICKERMAN
THOMAS EDWIN VICKERY
RAY KIRK WADDELL
THOMAS VINCENT WAGATHA
CHARLES STEVEN WAGNER
WILLIAM BENJAMIN WALKER, JR.
GREGORY EDWARD WALSH
ARTHUR JAY WARD
WILLIAM LOUIS WASSERMAN
WILLIAM HENRY WATERS
RAYMOND SPENCER WATERS, JR.
PATRICK ROGER WATTS
JAMES MICHAEL WEATHERLY
MICHAEL JAMES WELLS
ROBERT JOHN WHALEN
THOMAS JAMES WHALEN
RICHARD YOUNG WHITE
JAMES WAYNE WILLIAMS
WILLIAM EDWARD WINTER, JR.
JOHN PETER WOLFF
JOHN STEVEN WOOD
MARK ALAN WOOD
CHRISTOPHER BARRETT YATES
ROBERT HAROLD YONKER
CHARLES EDWARD YOUNG
THOMAS CHARLES YOUNG
ROBERT LEE ZIEGLER
CHRISTOPHER DAVID ZWINGLE

UNRESTRICTED LINE OFFICERS (TAR)

To be captain

DENNIS THOMAS BEAVER
JOHN BRADLEY BELL
DOUGLAS JAMES BELLOWS
ROBERT PALMER BLICKLE
LEVI BREEDLOVE, JR.
SUSAN M. BROOKER
ROSS NEWTON BROOKS, JR.
MICHAEL BRADFORD BRYANT
BILLY JOE DEAN
ROBERT ALFRED DUETSCH
ROBERT STEWART FISHER, JR.
CRAIG MICHAEL JANECEK
THOMAS LEVATTE JONES
MICHAEL REEDY KING
THOMAS LEE MCATEE
JOHN KINGSLEY MCQUIRE, JR.
RAYBURN LLOYD MCKAY
JOHN P. MCLAUGHLIN
JAMES MICHAEL MORRELL
DANNY CHARLES NELMS
ULYSSES LOUIS NOLEN
PATRICK BRIAN PETERSON
WILLIAM MICHAEL PIERSIG, JR.
DANIEL ISAAC PUZON
WILLIAM HENRY ROETING
WILLIAM H. ROUND
DONALD EDWARD SCHRADE
MICHAEL E. SCHUM
WILSON OTTO SHEALY
TERRY LEE SIMPSON
CATHERINE ELIZABETH SPERRY
CHARLES W. WAGNER

ENGINEERING DUTY OFFICERS

To be captain

RODNEY L. COOK
MARK ALAN COOPER
RONALD EDWARD COUCHOT
DONALD KENNETH DRUMM
GREGON LEE GANT
LAWRENCE HIROSHI KUBO
WALTER FRANK MALEC
TERRENCE WAYNE MAYHAN
JOHN HENRY RILEY
MICHAEL RALPH RILEY
THOMAS GEORGE TETLOW
KENNETH STRATTE WATKINS, JR.
JACOB FRANK WECHSELBERGER
STEPHEN PAUL WEISE

AEROSPACE ENGINEERING DUTY OFFICERS (ENGINEERING)

To be captain

JOHN A. CONKEY
GLENN E. HESS
KELLY BRIAN MORGAN
ANTHONY JOHN PALAZZO, JR.
GEORGE HUEY SANDERS
RODNEY KEITH WOMER
RAYMOND WAYNE WOODS
JOHN WILLIAM ZULICH

AEROSPACE ENGINEERING DUTY OFFICERS (MAINTENANCE)

To be captain

JAMES EDWARD ERVIN, JR.
JOHN CARR KORNEGAY
BERNARD ALMOND WUNDER

SPECIAL DUTY OFFICERS (MERCHANT MARINE)

To be captain

WILLIAM CLIFFORD BRITT
DAVID SUTTON FIELD
FRANK JOSEPH FLYNTZ
STEPHEN CHESTER PACUSKA
LARRY NORMAN ROOD
ERNEST PAUL SKOROPOWSKI
EDWARD E. STRIBLING
EDWARD BARNEY WILLIAMS, JR.

SPECIAL DUTY OFFICERS (CRYPTOLOGY)

To be captain

JACK FRANK JACKSON
RONALD DALE JENSEN
THOMAS LEE MCCARRIAR, JR.
GREGG F. MITCHELL
LORAN DEVER NAUGHER, JR.
RONALD WILLIAM SERVIS
WILLIAM EDWARD SKINNER

SPECIAL DUTY OFFICERS (INTELLIGENCE)

To be captain

ROBERT VREELAND ALLEN
WILLIAM DAVID BOSTWICK
RONALD DEE BROGAN
BRUCE ELLIOT BROWNELL
CHARLES DAVIS BURNHAM, JR.
CHARLES HENRY CAMPBELL
JOHN LAWRENCE CARLSON
LAWRENCE FRANCIS CLARK
RICHARD DEAN CLARK
ANDREW MARTIN DANIELS, JR.
THEODORE LEWIS DAYWALT
ELAINE MEYER DIPALMA
JAMES RUSSELL DYER
JOHN EVANOFF
JOHN STEPHEN FEDOR
CHARLES KEITH FENNELL
JOHN FRANCIS FLORIO
CHARLES WHITFIELD FROST
EDWARD HARPER GILLESPIE
BEN EDWARD GIRTMAN
MICHAEL WILLIAM GOSS
KEITH ALLAN HANSEN
JAY THOMAS HARTMAN
ROBERT CALVIN HAYNES
DANIEL RICHARD HEGMAN
DALE ROY HERSPRING
BELTON EMOULOUS JENNINGS, II
MATHEWS MARTIN JOHNSON, JR.
STEVEN RICHARD KALTNECKAR
WILLIAM RALPH KELBERGLAU
RICHARD JAMES KIRWIN
NORMAN BOBBY KRIMBILL
CHARLES WARREN LAMPLEY
HARVEY LAYMAN, JR.
JANIS LEANORE LIBUSE
JOHN OTTO LOHMEYER, JR.
JAMES MANZELMANN, JR.
LON DEVERE MARLOWE, III
GORDON K. MERIWETHER, III
PATRICK HENRY MERRILL
SHARON ELAINE MILLER
THOMAS CLARK MITCHELL
CHARLES RUSSELL NOLAND, JR.
JAMES CLINDON NORRIS
WAYNE ROGER PELAEZ
JOYCE RUTH SACCIO
PAUL LEWIS SIMPSON
ROBERT WILLIAM STUART
BRIAN DEAN WELCKER
JOHN CHRISTOPHER WRIGHT

SPECIAL DUTY OFFICERS (INTELLIGENCE) (TAR)

To be captain

BARRY VONBERG MORTON

SPECIAL DUTY OFFICERS (PUBLIC AFFAIRS)

To be captain

RONALD HENRY BAFETTI
RUFUS R. BARBER, JR.
TRACY DANIEL CONNORS
WELLINGTON EUGENE ESTEY
ROBERT WILLIAM FULLBRIGHT
SHARON ALEXA HAMRIC
WILLIAM HENRY HEARD, JR.

ROBERT MENAGH HOUGHTON
RICHARD JOHN LYSTER
SALLY CHIN MCELWREATH
DAVID MICHAEL SNYDER
WILLIAM JOSEPH WILSON

SPECIAL DUTY OFFICERS (OCEANOGRAPHY)

To be captain

MICHAEL JOSEPH CARRON
MICHELE HUGHES LOCKWOOD
DUANE EDSON MOYER
RICHARD ALAN PAULUS

THE FOLLOWING-NAMED COMMANDERS IN THE LINE OF THE NAVY FOR PROMOTION TO THE PERMANENT GRADE OF CAPTAIN, PURSUANT TO TITLE 10, UNITED STATES CODE, SECTION 624, SUBJECT TO QUALIFICATIONS THEREFOR AS PROVIDED BY LAW:

UNRESTRICTED LINE OFFICERS

To be captain

GEORGE BOARDMAN ALLISON
JACQUELINE OMEARA ALLISON
WILLIAM GLENN ARNOLD
DANIEL LOUIS BAAS
HAROLD RALPH BISHOP
BLAKE VICTOR BLAKEY, JR.
RONALD COOMBS BOGLE
WILLIAM SCOTT BONIFACE
JAMES ELLIOTT BOOTH
JAMES ALLEN BOWLIN
JOHN EDWARD BOYINGTON, JR.
DANIEL EARL BROWN
TIMOTHY ROBERT BRYAN
SCOTT THOMAS CANTFIL
LESLIE ROY CARTER
CONSTANCE EMILY CIVIELLO
ROBERT W. CONDON
JOSEPH BERNARD CONNELLY
RALPH HERBERT COON, JR.
JEFFREY WILEY CREWS
DAVID MARK CROCKER
SHERRILL THOMPSON DARLING
JEFFREY JOHN DAVIDSSON
ROCKLUN ALLEN DEAL
LAWRENCE LEE DICK
BARRY DAVID EINSIDLER
JIMMY LEE ELLIS
BRUCE BIDWELL ENGELHARDT
RICHARD MARCUS EUBANKS
MARNEE LEE FINCH
MARK PAUL FITZGERALD
RICHARD PETER FLEMING, JR.
DONALD CLYDE FOX
LAWRENCE DANIEL GETZFRED
RONALD BURTON GLOVER
JAMES R. GOESSLING
PAUL MICHAEL GRIFFIN
CHRISTOPHER RYAN HENRY
STEVEN ROY HINSON
TIMOTHY ALOYSIUS HOLDEN
WILLIAM FRANK HOPPER
GARY MICHAEL JACK
JIMMIE RAY JACKSON
THEODORE LAWRENCE KAYE
JESSE JOHNSTON KELSO
KRISTOPHER MORRIS KENNEDY
EDWARD JOSEPH KUJAT
COLEMAN ARTHUR LANDERS
CHRISTOPHER STEPHEN LARSEN
RAYMOND EARLE LEONARD, III
ROBERT DAVID LIGGETT
WILLIAM ASHBY LILLARD, III
JOSEPH SHARP LITTLETON, III
MICHAEL ANTHONY LUTKENHOUSE
WILLIAM JORDAN MARSHALL, III
PERRY JAMES MARTINI, JR.
CHARLES MANNING MASON, JR.
DANIEL WALLACE MCELROY
GENE RICHARD MCGALLIARD
PHILLIP HORNE MILLS
JOHN GABE MORGAN, JR.
KEITH PAUL MULDER
ROBERT THOMAS MURPHY
GEORGE JOSEPH MURPHY, III
DON RUSSELL NEWMAN
LARRY ANTHONY PACENTRILLI
LARRY ELLIS PENIX
KENNETH WARREN PETERS
JOHN STEVEN PINE
JAMES EDGAR PLEDGER
RONALD EVERETT RATCLIFF
JERRY DAVID REEVES
WAYNE RONALD REEVES
STEPHEN E. RESSER
PAUL EDWARD ROBERTS
WILLIAM ARMSTARD ROGERS, JR.
NICKLOUS JAMES ROSS
GARY ROUGHEAD
DOUGLAS ROBERT ROULSTONE
LINDELL GENE RUTHERFORD
PAUL JOHN RYAN
CRAIG PINARD SACKETT
STACY E. SEBASTIAN
DEAN GORDON SEDIVY
MARTIN VICTOR SHERRARD
MARY CATHERINE SHIPMAN
CHARLES REGIS SIPE, JR.
GENE ARNOLD SMITH
ROBERT EDWARD SMITH
WAYNE EDWARD SMITH
STEVEN JAY SONNTAG
GENE ALLEN STEVENS
CHARLES ALBERT STEVENSON
DALE ERWIN STOEHR
DONALD WINSTON STONER
BRUCE TAYLOR STUCKERT
WILLIAM DANIEL SULLIVAN
GERALD LLOYD TALBOT, JR.
MICHAEL WADE TREEMAN
DANIEL ROY VELDSTRA
MICHAEL CARL VOGT
STEVEN BRUCE WESTOVER
ALAN BRUCE WILLBURN
MARCUS SAMUEL WILLIAMS
ROBERT EDWARD WILLIAMS, JR.
JUSTIN WILLIAM WINNEY, JR.
JOHN REID WORTHINGTON
RICHARD LEE WRIGHT

ENGINEERING DUTY OFFICERS

To be Captain

GERALD BERTRAM BLANTON
JERRY MCKINLEY JENKINS
ROBERT EMMETT LUBY, JR.
MARK SHERIDAN MORANVILLE
DERRY THOMAS PENCE
JOHN HENRY PREISEL, JR.
RALPH EUGENE STAPLES, JR.

AEROSPACE ENGINEERING DUTY OFFICES (ENGINEERING)

To be captain

EUGENE BAL, III
WILLIAM LOUIS DUBOIS
MICHAEL JOSEPH LULU
KENNETH STANLEY J REIGHTLER
ROBERT WAYNE RUSSEL

AEROSPACE ENGINEERING DUTY OFFICERS (MAINTENANCE)

To be captain

BERT UWE COFFMAN
THOMAS CONROY, JR.
THOMAS HOP YEE

SPECIAL DUTY OFFICERS (INTELLIGENCE)

To be captain

ALLAN WESLEY LEGROW
JEFFREY EVANS LEWIS
PHIL LAWRENCE MIDLAND
STEVEN ANDREW SISA

SPECIAL DUTY OFFICERS (PUBLIC AFFAIRS)

To be captain

CONNIE L. HANEY
WILLIAM ROBERT HARLOW,
JR.

SPECIAL DUTY OFFICERS (OCEANOGRAPHY)

To be captain

RICHARD DUANE LEROY
JAMES ROBERT MASON

LIMITED DUTY OFFICERS (LINE)

To be captain

RONALD KENNETH CURRY

THE FOLLOWING-NAMED COMMANDERS IN THE STAFF CORPS OF THE NAVY FOR PROMOTION TO THE PERMANENT GRADE OF CAPTAIN, PURSUANT TO TITLE 10, UNITED STATES CODE, SECTION 624, SUBJECT TO QUALIFICATIONS THEREFORE AS PROVIDED BY LAW:

MEDICAL CORPS OFFICERS

To be captain

MARK D. BROWNING
MARK F. CLAPPER
PETER MICAHEL CLEMONS
DAVID W. CORBETT
JAMES KENNETY DOLNEY
MICHAEL ROY FREDERICKS
KIM FRICKE GIBSON
RICHARD G. HIBBS, JR.
ELAINE CAMPBELL HOLMES
BYUNG JIN MIN KIM
HAROLD BRANSFORD LAMB
GARY R. LAMMERT
URIEL ROMEY LIMJOCO
DAVID CURTIS MCLELLAN
JOHN HENRY NADING
RAYMOND PAUL OLAFSON
FRED PETER PALEOLOGO
MANUEL EN RIVERAALSINA
DAVID WAYNE ROBERTSON
LEO B. SIMMONS, JR.
JAMES WARREN STEGER

SUPPLY CORPS OFFICERS

To be captain

MARK EDWARD EASTON
CHRISTOPHER GEORGE HAUSER
GERALD FRANK HESCH
RICHARD E. PAUL MORRISON, JR.
WILLIAM DAVID ORR
EDWARD WESLEY PINION
WILLIAM ARTHUR WRIGHT

CHAPLAIN CORPS OFFICERS

To be captain

JEFFERSON D. ATWATER
MELVIN RAY FERGUSON
ROGER W. PACE
GEORGE W. PUCCIARELLI
MOSES L. STITH
GERALD S. VINTINNER

CIVIL ENGINEER CORPS OFFICERS

To be captain

PAUL LEROY CLOUGH
JOHN RAYMOND DOYLE
RICHARD FREDRICK HAAS, JR.
DAVID GERARD ROACH

JUDGE ADVOCATE GENERAL'S CORPS OFFICERS

To be captain

GERALD JOS KIRKPATRICK
SALLY JEAN MCCABE
RONALD VICTOR SWANSON

DENTAL CORPS OFFICERS

To be captain

CHARLES ALA BOOKWALTER
JOHN D. BRAMWELL
MARION COLUMB ELDRIDGE
ROBERT K. FLATH
GREGORY G. KOZLOWSKI
FRANK JAMES KRATOCHVIL
ALBERT CHAR RICHARDSON
PAUL EDWARD SCHMID
CHARLES WILLIAM TURNER
JOSEPH C. WHITT
DALE E. WILCOX
PAUL MARSHALL WILEY

MEDICAL SERVICE CORPS OFFICERS

To be captain

TOMMY WAYNE COX
THOMAS RICHA DEFIBAUGH
ROBERT LAWRENCE EDMONS
MELVYN ADAMS ESTEY, JR.
PETER PAUL GARMS
DEAN F. GLICK
RUDOLPH JONES
RALPH ALVIS LOCKHART
JUDITH ANNE MCCARTHY
GERARD VINCENT MESKILL
STEVEN DUANE OLSON
CHARLES JOSEPH ROSCIAM
FREDERICK RIC TITTMANN

NURSE CORPS OFFICERS

To be captain

MARY ALICE BOWDEN
JOHN FREDERICK BOYER
JUDITH CO BRINCKERHOFF
MARY ANN CRONIN
GARY R. HARMEYER
ELIZABETH K. KOZERO
SHIRLEY DEA LEWISBROWN
GEORGE LAWRENCE MARSH
LINDA UNGVARSK MCMAHON
DONNA JEAN VAN OHLMAN
LESLIE ELIZAB ROBINSON
EVELYN RUTH SHAIA
CHATHERINE ANN SWAN
JANE WESTMOREL SWANSON

THE FOLLOWING-NAMED LIEUTENANT COMMANDERS IN THE LINE OF THE NAVY FOR PROMOTION TO THE PERMANENT GRADE OF COMMANDER, PURSUANT TO TITLE 10, UNITED STATES CODE, SECTION 624, SUBJECT TO QUALIFICATIONS THEREFOR TO AS PROVIDED BY LAW:

UNRESTRICTED LINE OFFICERS

To be commander

RONALD LEE AASLAND
THOMAS ABERNETHY
MARK THOMAS ACKERMAN
ALLAN ARTHUR ADELL
DONALD W. AIKEN
JOHN D. ALEXANDER
BERT R. ALGOOD
DAVID LEE ALLEN
SHERRIE SUSAN ALY
JOHN MICHAEL AMICARELLA
KEVIN S. AMOS
JOHN P. ANDERSON
MARK ALLEN ANDERSON
THOMAS ROBERT ANDRESS
NEAL EDWIN ANDUZE
MICHAEL DENNIS ANHALT
SCOTT TIMOTHY ANHALT
DAVID SPENCER ARMSTRONG
JACQUELYN MARIE YO ARROWOOD
ROBERT BRYANT ASMUS
GREGORY FRANCIS ATCHISON
DOUGLAS ELLIOTT ATKINS
STACY SETSUMI AZAMA
DAVID A. BABCOCK
ROBERT B. BADGETT
STEVEN MALLARD BAGBY
RODNEY LEE BAKER
MARK W. BALMERT
BENJAMIN HIRAM BANKSTON
THOMAS DAVENPORT BARNS
WELROSE ERNEST BARTLEY, II
LARRY STEVE BARTON
MICHAEL STEPHEN BASFORD
DALE R. BATEY
HOWARD SHELEY BAYES
DEBORAH ANN BECKER
RICHARD CARLTON BEDFORD
RICHARD SCOTT BENNETT
THOMAS A. BENNETT
SCOTT ALAN BERG
STEVEN M. BERGER
DAVID DWIGHT BIGELOW
THOMAS J. BILY
CARL DAVID BINDMAN
KENNETH JOSEPH BITAR
ROBLEY JAMES BLANDFORD
WILLIAM MICHAEL BLASCZYK
ROBERT A. BOGDANOWICZ
JOEL E. BOHLMANN
BRUCE STANLEY BOLE
HARRY P. BOLICH
ROBERTA BESS BOLYARD
NORMAN B. BOSTER
KENNETH DWANE BOWERSOX
JOHN L. BOWLES
JOHN HARRISON BOWLING, III
MICHAEL EDWARD BOYD
AUSTIN WALKER BOYD, JR.
JANE DENISE BOYER
CEDRIC ANTONIO BRADFIELD
THOMAS HENRY BRADY, JR.
TED N. BRANCH
BOB ALLAN BRAUER
STEVEN LEET BRIGANTI
JAMES E. BROCKINGTON
DAVID P. BROWN
ROBERT MARTIN BROWN
THEODORE HAROLD BROWN
DAVID W. BRUCE
ROBERT A. BUEHN, JR.
FREDERICK M. BUESSER
RICHARD WARREN BUMP
DAVID AUSTIN BURDINE
WILLIAM R. BURKE
DAVID ALAN BURKARD
WILLIAM JOHN BURROWS
WARREN RUSSELL BYRUM
JAMES KENDALL CAMPBELL
JEFFREY REID CAMPBELL
WILLIAM HENRY CAMPBELL
JOHN MICHAEL CARAM
KENDALL L. CARD
JO ANNE CARLTON
PATRICK BRENDAN CARMODY
LARRY IRVIN CARPENTER
JAMES M. CARR
NELSON MARZAN CAYABYAB
VICTOR LEE CERNE
BARBARA JEAN NEL CHADBOURNE
RICHARD CHAPMAN
JAMES R. CHEEVER
KEVIN R. CHEEZUM
PATRICIA ANN CHMIEL
JACK CHRISTENSEN
PETER HUGH CHRISTENSEN
DAVID WILLIAM CHRISTIE
LEWIS JOSEPH CIOCHETTO
JAMES P. CLAGER
BRIAN GORDON CLARK
JANEEN WEST IGOU CLEMENS
JANEL DEE COBERY
DARRELL L. COFSKY
JOHN E. J. COHOON
ROBERT EDWARD CONNERY, JR.
JOHN G. COOKE
RUTH ANNE COOPER
MAUREEN T. COPELOF
MIMI NMN CORCORAN
ANTHONY THOMAS CORTESE
RALPH R. COSTANZO
JOHN M. COSTELLO
JERRY WAYNE COUFAL
CRAIG H. COWEN
WILLIAM R. COY, JR
CLINTON HARRISON CRAGG
DONALD CARR CRAWFORD
STEPHEN MICHAEL CRAWFORD
WILLIAM THOMAS CROOKS, JR.
MICHAEL KERBIE CROSBIE
THOMAS D. CROWLEY
ROBERT KEITH CRUMPLAR
GREGORY STEVEN CRUZE
SHELLEY JO CRUZE
ROBERT L. CULLINAN
ROBERT MICHAEL CURTIS
STEPHEN P. CURTIS
STEVEN WILLIAM DAILEY
MICHAEL V. DANIEL
MARSHALL DEAN DAUGHERTY
CINDY MARIE DAVIDSON
JEFFREY J. DAVIS
SHARON ANN DEEMS
NANCY LAMBERT DEITCH
EDWARD J. DEMARTINI, JR.
WILLARD EUGENE DENTON
KATHRYN LOUISE DESTAFNEY
KENNETH WILLIAM DEUTSCH
JEFFREY DAVID DEVONCHIK
ANDREW LAWRENCE DIEFENBACH
CRAIG M. DIFFIE
KATHRYN ANNE DIMAGGIO
MARY CHARLOTTE DIMEL
DONALD R. DITKO
JAMES M. DOHERTY
KEVIN C. DONLON
CARL W. DOSSEL
MARTIN A. DRAKE
ROBERT WAYNE DRASH
CLIFFORD DALE DRISKILL
DENNIS D. DUBARD
LEE JOSEPH DUCHARME
MICHAEL FRANCIS DULKE
WILLIAM M. DUNKIN
NAN BERYLL DUPUY
MICHAEL A. DURNAN
GARY BRYAN DYE
WILLIAM JEFFREY EARL
DONALD LEWIS EBERLY
VICTOR ANTHONY EDELMANN, JR.

CATHERINE ELIZABETH EDWARDS
RICHARD THOMA EGAN
GERARD T. EGLER
JOHN E. EHLERS
DAINE E. EISOLD
MATTHEW P. ELIAS
ALFRED BART ELKINS
ROBERT HAROLD ELLIS
MARTIN J. ERDOSSY, III
DAVID E. ERICKSON
WILLIAM P. ERVIN
GARY JOHN EVANS
DONALD JESSE FAIRFAX
FARIS T. FARWELL
DAVID EDWARD FAY, JR.
MICHAEL LLOYD FELMLY
RICHARD PAUL FERGUSON
MARK BRITTON FINCH
SUSAN JANE FINLAY
MICHAEL JEFFERY FISCHER
J.G. FITZGERALD
GLENN FLANAGAN
MARC A. FLEMING
PETER S. FLYNN
GLENN AARON FOGG
PAMELA MERRY BROWN FORBES
JAMES MICHAEL FORDICE
JEFFREY L. FOWLER
MARK IRBY FOX
MICHAEL C. FRALEN
JOHN EDWARD FRASER
LINDA JEAN FRASERANDREWS
BOYD M. FREEBOROUGH
GEORGE JEFFREY FULLERTON
STEPHEN M. GAHAN
MICHAEL JAMES GALPIN
LAWRENCE FRANCIS GALVIN
BRET CARLETON GARY
JUNE ALYCE GASTON
DONNA VANCE NELSON GEIGER
GERALD WILLIAM GELETZKE
STEPHEN A. GIESEN
JEFFREY R. GINNOW
ROBERT R. GIRARD
ALFRED GONZALEZ
THOMAS DAVID GOODALL
ROBERT O. GOODMAN
VALENTINA CARGOS GOODMAN
JOHN G. GOOGE
JAMES WILLIAM GOULD
DEBORAH LEA GRANT
DOUGLAS D. GRAU
GEORGE LEWIS GRAVESON, III
JOHNNY L. GREEN
MICHAEL J. GREENE
PHILIP HILLIARD GREENE, JR.
JACK ALAN GREENSPAN
JOAN MCDONALD GUILFORD
ROBERT ALLAN GURCZYNSKI
ROBERT H. GUY, JR.
WALTER C. HABERLAND
NORMA LEE HACKNEY
JOSEPH BRUCE HAMILTON
JOHN ALVA HANCOCK
CECIL E. HANEY
PAUL CHRISTIAN HANSON
CLARE W. HANSON, II
HUGH MCLEOD HARDAWAY
ROBERT PAUL HARGER
DEON AUSTIN HARKEY
WILLIAM DONALD HARRINGTON
GRAIG F. HARRIS
DOUGLAS W. HARRIS
HARRY B. HARRIS
JAMES PATRICK HARRIS
CHARLES B. HASBROUCK, III
MARK H. HASKIN
JOHN R. HASTINGS
JOHN ROOSEVELT HAWK, III
THOMAS CAREY HAYES
PETER JOSEPH HEALEY
DIRK P. HEBERT
CHARLES DONALD HEISER
WILLIAM JOE HENDRICKSON
PETER HENRIK HENDRIKSON
JOHN R. HENNIGAN
KARL ANDREW HETTLER
CHARLES DUANE HEUGHAN
LYNNE MARGO HICKS
RICHARD ARTHUR HICKS, II
DONALD DAVID HILL
SUZANNE WOODMAN HIRSCH
FRANCIS A. HISER, III
CARY J. HITHON
FRANCIS XAVIER HOFF
RANDALL H. HOFFMAN
GREGORY PAUL HOGUE
MICHAEL J. HOLDEN
DANIEL HOLLOWAY
JOHN BARRY HOLLYER
THOMAS D. HOLMAN
PAUL STEVEN HOLMES
PATRICK C. HOPFINGER
PAUL BRUCE HOUY
JOY LEE HOWARDSNOW
WILLIAM CHARLES HUGHES, JR.
MICHAEL PAUL HUTTER
VERNON HUTTON, III
DARAH MARGARET HYLAND
CAVID LLOYD IRVINE
GLEN R. IVES
GREGG S. JACKSON
JAMES D. JEFFREY
DAVID G. JENKINS
MARK ERIC JENSEN
LARRY DEAN JOHNSON
RICHARD ERIC JOHNSON
SIGNE THERESE JOHNSON
STEVEN PAUL JOHNSON
MICHAEL JOHNSTON
THOMAS ALLEN JOHNSTON
JOE DEAN JONES
LEONARD BERNARD JONES
PAULA LYNN JORDANEK
JOHN CHARLES KAMP
EDWARD F. KAMRADT
ROGER E. KAPLAN
ANDREW T. KARAKOS
WILLIAM JAMES KEAR
TIMOTHY PATRICK KEATING
RONALD G. KEIM
ROBIN N. KEISTER
LESLEY ANN KELLY
STUART OAKES KENDRICK
CHARLES BYNG KEY, III
STEVEN ANTHONY KIEPE
JOHN PRESTON KINDRED
DARYL AMSTER KING
LANNY LEIGH KING
STEVEN D. KINNEY
RICHARD JOHN KISER
MIRIAM ANDERSON KLAPKA
MARGARET ANN KLEE
RAYMOND MICHAEL KLEIN
CHRISTOPHER A. KLYNE
MICHAEL GALEESE KNOLLMANN
ANDREW JAMES KOCH
LEIF H. KONRAD
JAMES ROBERT KOSLOW
MARK E. KOSNIK
GEORGE MICHAEL KOUCHERAVY
WARREN S. KRULL
DONALD ALAN KUNTZ
RICHARD K. KURRUS
JON DAVID LACKIE
MERLIN WILLIAM LADNER
CHRISTOPHER JOSEPH LAGEMANN
DANIEL M. LAMBERT
JOHN DAVID LAMBERT
PHILLIP ROBERT LAMONICA
LEWIS SCOTT LAMOREAUX, III
LINDA MARIE DAY LANCASTER
WILLIAM E. LANDAY
SCOTT A. LANGDON
STEPHEN B. LATTA
ROBERT JEFFREY LAUDERDALE
GARY R. LEAMAN
DAVID ALLAN LEARY
HORACE M. LEAVITT
RAND D. LEBOUVIER
STEVEN EUGENE LEHR
CHARLES J. LEIDIG
LINDA MARIE LEWANDOWSKI
JEFFREY GEORGE LEWIS
PETER JEWETT LEWIS
STEVE KIRK LILLEY
CARL ERIC LINDSTRAND
JOHN RICHIE LINK
STEPHEN C. LINNELL
KEVIN LINDSAY LITTLE
JAMES GERARD LOEFFLER
TRACY KEITH LOFTIS
ARNOLD OTTO LOTRING, JR.
ALTON A.S. LOVVORN
DOUGLAS S. LOWE
JOHN F. LUKSIK, JR.
PAUL K. LYNCH
DOUGLAS GRAEME MACCREA
JOHN EDWIN MACCROSSEN
RAYMOND TEX MACHASICK
LIZBETH LYNN MACKEY
DENHAM BRUCE MACMILLAN
ARCHER M. MACY, JR.
ALAN GARY MAIORANO
PAUL J. MALLON
MARK C. MANTHEY
STUART BRIAN MARKEY
JOSEPH MICHAEL MARLOWE
LAURA ANNE CARPENTE MARLOWE
BARBARA YVONNE MARSHJONES
JOHN ALLEN MARTIN
JOSEPH R. MARTIN
WILLIAM ALEXANDER MARTIN
RICARDO MARTINEZ
CHARLES WALT MARTOGLIO
ROBIN FERGUSON MASON
MICHAEL GARY MATACZ
JAY KEVIN MATTONEN
MICHAEL R. MAXFIELD
DOUGLAS JOHN MCANENY
HUGH ROBERT MCATEER, JR.
DONALD I. MCCALL
LINDA ANN MCCARTON
BRIAN JOSEPH MCCORMACK
MICHAEL MCCRABB
LARRY SAMUEL MCCRACKEN
MARY ANN MCCULLEN
ADRIAN CARRELL MCELWEE
THOMAS F. MCGUIRE
GORDON TORRES MCKENZIE
THOMAS MCKEON
TERENCE EDWARD MCKNIGHT
CLARENCE W. MCKOWN, JR.
JOHN CABOT MCLAWHORN
DUNCAN GORDON MCLEAN
MARY MCLENDONKOENIG
PATRICK MICHAEL MCMILLIN
MARTHA EGGERT MCWATTERS
MARK ALAN MEHLING
DAVID J. MERCER
BRIAN JOSEPH MEYERRIECKS
KURTIS JOHN MILLER
PATRICIA ANN MILLER
SCOT A. MILLER
STEVEN CRAIG MILLER
LEROY M. MILLS
ARTHUR SCOTT MOBLEY
PAUL MARSHALL MOMANY
RICHARD JOHN MOONEY
MELANIE ELISE MOORE
MICHAEL M. MOORE
MELINDA LEE MORAN
JOHN PATRICK MORIN
ALAN GENE MORRIS
DAVID B. MORRISON
KEVIN NMN MORRISSEY
DAVID EMBREE MOSCA
ALAN C. MOSER
TERESA URBAN MOSIER
MICHAEL GEORGE MULCAHY
ROLAND JOHN MULLIGAN
CHRISTOPHER CYRUS MURRAY
MICHAEL JOHNSON MURRAY
ALLEN GARVER MYERS
RICHARD JAMES NAGLE III.
WILLAM PATRICK NASH, JR.
MARK S. NAULT
DALE MARTIN NEES
RICHARD ALVIN NEIDRAUER
ERIC KARL NELSON
PHILIP B. NELSON
JOHN FINLEY NEWCOMB
CHRISTOP NICHOLS
TERRY EVELL NOLAN
JOHN CHALMERS NOULIS, JR.
ROBERT E. NOVAK
ALFRED STEVEN NUGENT, III
JOHN CORBET NUNLEY
CHRISTOPHER GLENN NUTTER
JAMES WILLIAM OCONNELL
LARRY B. OLSEN
CHARLES S. ORMSON
DENNIS NMN OURLIAN
LESLIE ANN PAGE
ANN REBECCA PAINTER
GLENN P. PALMER
ANTONY FRANK PAPAPIETRO, JR.
BETH HARRELL PAPWORTH
RICHARD A. PAYNE
CARL MARTIN PEDERSON, JR.
LAURA RETTA PEOPLES
PATRICK KEVIN PEPPE
ELEANOR KIRKPATRICK PERNELL
JOHN STEWART PETERSON
JOSEPH CARL PETERSON, JR.
LAWRENCE EDWARD PHILLPS
DAVID LAVON PHILMAN
CRAIG JOHN PICKART
FRANCIS S. PIERCE
TERRY CLIFFTON PIERCE
CHARLES JAMES PIERCE, JR.
PAUL M. PIETSCH
JAMES E. PILLSBURY
RONALD CHRISTIAN PLUCKER
BARRY J. POCHRON
DENNIS M. POPIELA
ARTHUR R. PROCELLI, JR.
JOANN NMN PORTER
DANA RICHARD POTTS
CHRISTOPHER LEE POWERS
CLARK GORDON PRESSWOOD
LESTER L. PRICE
WALTER S. PULLAR, III
MARTHA LEETE PURDY
A.J. QUATORCHE
KEITH J. QUIGLEY
GALE RAE RADEBAUGH
JAMES WILLIAM RAINWATER
JOYCE ZELLWEGER RANDLE
MATTHEW G. RAUSCH
RONALD C. RAYMER
ORIN PAUL REAMS
NORI ANN REED
HOWARD F. REESE
JAMES T. REILLY
THOMAS NMN REITMEYER
DENNIS DANA RENFRO
JAMES M. RENNIE
DAVID ALLEN RHODES
BENJAMIN ELLIOT RICHTER
WANDA LYNN RIDDLE
STEWART WARREN RIVALL
JAN GILBERT RIVENBURG
LYNN JANET ROBERTSON
BRIAN MARK ROBY
RENEE LEFEBVRE RODECK
MYLES ELLIOTT ROELING
GERARD DAVID RONCOLATO
JAMES F. ROOT
JOHN S. ROSA
PAUL K. ROSBOLT
ERIC R. ROSENLOF
STEVEN C. ROWLAND
T.G. RUBENSTEIN
PHILIP IRVING RUSSELL
PAUL J. RUSSO
KEVIN PAUL RYAN
MICHAEL SADDLER
FERDINAND LEWIS SALOMON, III
MITCHELL K. SAULS
HELEN JEANNETTE SCHAAL
MATTHEW EDWARD SCHELLHORN
WILLIAM ANDERSON SCHLICHTER
PAUL WALTER SCHMIDLE
JOHN MICHAEL SCHUMACHER
PETER PAUL SCHWAB
JAMES D. SCOLA
GRACE VALERIE SCRUGGS
JAMES MICHAEL SEAGLE
CATHY ROSE SEIFERT
KARL JOHN SEMMLER
ROBERT REID SENTER, JR.
DANIEL D. SERFASS
ANN MARGARET SHEEDY
SHARON JO SHELTON
JUSTIN M. SHERIN, JR.
PATRICK JOSEPH SHERMAN
MICHAEL ROBERT SHUMAKER
DARRELL THOMAS SINK
PETER J. SISA
WILLIAM F. SLAGLE
CATHERINE JOSEPHINE SLEETH
MARTHA JANE SMART
RICHARD EUGENE SMETHERS, JR.
CHARLES EDWARD SMITH
DANNY JOE SMITH
DAVID MARSHALL SMITH
DOUGLAS M. SMITH
MICHALA MARY SMITH
RICHARD WHITNEY SMITH
RICHARD B. SOUTHARD, JR.
MARK EDWARD SPECK
SCOTT ALAN SPENCER
TIMOTHY PATRICK SPRAGUE
DANIEL LEE SQUIRES
JOHN D. STALNAKER
HENRY TURNER STANLEY, III
MARK ALAN STEARNS
WILLIAM BRUCE STEDMAN
FLOYD LEROY STEED
ANN CATHERINE STEWART
RONALD PAUL STITES
ROBERT M. STUART
JOHN K. STUART, JR.
WILLIAM SEBASTIAN STUHR
JOHN BELLOWS STURGES, III
ALAN ROGER SULLIVAN
JOSEPH EDWARD SULLIVAN
MARY MAUREEN SULLIVAN
KRISTI HOLLI CHASE SUNDIN
PATRICIA J. SUNKLE
PAUL K. SUSALLA
PHILLIP TIM SWANSON
JERRY C. SWARTZ
MARY JOSEPHINE SWEENEY
WADE CARL TALLMAN
SAM J. TANGREDI
DANIEL A. TANSEY
ROBERT R. TAYLOR
GEORGE R. TEUFEL
BRIAN CHRISTIAN THOMAS
MICHAEL J. THOMAS
RONALD LOUIS THOMAS
TIMOTHY MARK THOMAS
DAVID NATHAN THORSON
KURT WALTER TIDD
WILLIAM G. TIMME
GREGORY PAUL TIMONEY
CHARLES NMN TIMON, JR.
PATRICK THOMAS TOOHEY
GEOFFREY CHARLES TORRANCE
TODD DOUGLAS TRACY
TERRELL LEE TRIBBLE
RODERICK EDWIN TRICE
PAMELA WEBB TUBBS
MARK RICHARD ULANDER
ROBERT BURTON UPCHURCH
DONALD E. VANCE
PIETER N.A. VANDENBERGH
JAN MAARTEN VANTOL
PETER THEODORE VAS, III
DEAN KARL VAUGHN
DAVID A. VEATCH
MARK RUSSELL VOLLMER
GEORGE M. WADZITA
DANIEL M. WALBORN
GARY L. WALDRON
STEVEN C. WALKER
JOHN P. WALLACE
LESTER A. WALLACE
STEPHEN JOSEPH WALSH
THOMAS LORENZO WALSTON, III
JOHN EDWARD WALTERS
LAWRENCE M. WALWORTH
WILLIAM BRIAN WATKINS
DAVID CALVIN WEEKS
JOHN ANDREW WEIDNER
STEPHEN NELSON WEILBACHER
CHARLES HERMAN WEISS, JR.
MARK S. WELCH
RODGER L. WELCH
DANIEL LATHROP WENCESLAO
DOUGLAS FRANK WHALEN
BLAKE ELLIS WHITE
GARRY RONALD WHITE
GLEN THOMAS WHITE
KEVIN EUGENE WHITE
TIMOTHY ALAN WHITE
JOHN BERYL WHITSELL
MARK RICHARD WHITTINGTON
DONALD RUSSELL WICKS
LINDA ELLEN WIDMAIER
MANFRED WILLIAM WIDMAN, JR.
LARRY DWIGHT WILCHER
JONATHAN EVERETT WILL
ALDEN GREGORY WILLIAMS
CARL EDWARD WILLIAMS
DAVID A. WILLIAMS
DAVID ROBINSON WILLIS
CHARLES EDWARD WILSON, JR.
MARY THERESA WINGER
CHARLES S. WITTEN
CHRISTOPHER MARK WODE
MARY ANNE WOODBURY
MICHAEL ALLEN WORTHINGTON
KEITH LEON WRAY
JOSEPH M. YANICHECK, JR.
ROY LEE YAPLE
RICHARD J. YASKY
ARTHUR WAYNE YENDREY
EARLE SWISHER YERGER
ROLF A. YNGVE
DAVID G. YOSHIHARA
ORRIN W. YOUNG
JOHN MARSHALL YURCHAK
ROBERT ZALASKUS
DEBORAH ANNE ZANOT
JOSEPH E. ZAVODNY
STANLEY N. ZEHNER
PAUL MICHAEL ZIEGLER
RUSSELL MARK ZIEGLER
GEORGE WILIAMS ZIMMERMAN
MARY JO ZUREY
EDWARD C. ZUREY, JR.

ENGINEERING DUTY OFFICERS

To be commander

CARL LEE ANDERSON
STEVEN L. BROOKS
RONALD ANTHONY CROWELL
PADRAIC K. FOX
WILLIAM ROBERT FRITCHIE
MARK A. GILBERTSON
CHARLES HAROLD GODDARD
DON W. GOLD
THOMAS L. GRODEK
ALAN EDWARD HAGGERTY
DONALD ROY HALL
PAUL DAVID HILL
FREDERICK F. HILLENBRAND, III
CHARLES LOUIS HOPKINS, III
GLENN ROY HOTTEL
STEPHEN LEO JOSEPH
DANIEL JOSEPH LOONEY
RODERICK M. LUSTED
MICHAEL ANTHONY LUZZI
VERRDON HOLBROOK MASON
DANIEL R. MATZ
KEVIN MICHAEL MCCOY
JOSEPH JOHN MEISBERGER
KENNETH DALTON MICKELBERRY
GLEN E. MOWBRAY
ROBERT J. MYERS
JOHN C. ORZALLI
LEO DENNIS OWENS, JR.
STEVEN EDWARD PETERSEN
MARK DAVID PETERSENOVERTON
PETER JOHN PETERSON
STEVEN W. PETRI
DOUGLAS ALAN RAY
THOMAS R. RENTZ
KENNETH PHILLIP ROEY
RAY C. ROGERS
VINCENT SALVATORE ROSSITTO
KURT DONALD SCHULZE
ANTHONY A. SHUTT
JEFFREY M. STEELE
MICHAEL ARTHUR STORM
ERNEST L. VALDES
THOMAS MICHAEL WILBUR
JAMES R. WILKINS
JEFFERY WADE WILSON
DANIEL MARVIN WISE
ROBERT JOSEPH WRIGHT

AEROSPACE ENGINEERING DUTY OFFICERS (ENGINEERING)

To be commander

GARY MARTIN ABBOTT
BRADFORD HARLOW BAYLOR
PATRICIA LEA BECKMAN
PHILIP C. BRENNAN
DANIEL W. BURSCH
DEMPSEY BUTLER, III
MICHAEL ALAN CLASSICK
KURT RICHARD ENGEL
CHRISTOPHER L. EVANS
MICHAEL A. HECKER
K.G. HEFFERNAN

MICHAEL KEITH HOLLINGER
CHARLES MICHAEL MCCARTHY
WILLIAM RICHARD MNICH, II
RICHARD A. MOHLER
WILLIAM NEVIUS
MICHAEL LYNN NOBLE
JACK WELTON OGG
SCOTT EUGENE PALMER
CARL E. REIBER
JAMES ARTHUR SEVENEY
JAMES FRANCIS SMALL, JR.
KENNETH MARTIN WALLACE
KARL E. YEAKEL

AEROSPACE ENGINEERING DUTY OFFICERS (MAINTENANCE)

To be commander

JOHN CONLIN BOYCE
EDWARD MARSHALL BOYD
WILIAM SIDNEY DEVEY, JR.
MICHAEL DAVIS HARDEE
KENNETH DEAN HARRIS
DAVID EDWARD HOUGH
REGINALD LAWRENCE HOWARD
DONALD JAMES KRENTZ
THEODORE ALDRED MILLER
ROY DAYTON MOORE
KEVIN PAUL OSHAUGHNESSY
STANLEY EARL PYLE
TIMOTHY FRANKLIN STREETER
THOMAS MICHAEL VANDENBERG

AVIATION DUTY OFFICERS

To be commander

EDWARD LEE CREWS, JR.
GEORGE NMN GEDNEY, III
PAUL EARNEST GODDARD
CLIFFORD MYLES HARRINGTON
JAMES A. MCCRAE
JOHN HOYT WILLS

SPECIAL DUTY OFFICERS (CRYPTOLOGY)

To be commander

MICHAEL JAMES BURKE
WAYNE KEVIN EVERS
EDWARD CURTIS FLETCHER
DUANE M. LAFONT
STEPHEN ANTHONY LAROCQUE
MICHAEL SEWELL LOESCHER
RANDALL THOMAS LYMAN
MICHAEL FRANCIS LYNN, JR.
WILLIAM MCKINLEY MATTHEWS
LINDA LEE MURDOCK
JOHN MARK ODWYER
MIRIAM F. PERLBERG
DENNIS M. PRICOLO
STEVEN K. TUCKER
DENNIS MICHAEL VOLZ
SCOTT WILLIAM WITT

SPECIAL DUTY OFFICERS (INTELLIGENCE)

To be commander

ALLEN NMN BANKS
CHARLES H. BREEN
TIMOTHY J. DENNIS
DEBORAH KAY EFFEMEY
DARRYL JOHN FENGYA
JOHN PASQUAL FORTUGNO
WILLIAM BARTLETT FRANCIS
MARK FRANCIS GREER
RICK ALAN GUNDERSON
DALE EDWARD HAYS
RANDALL LEE HENDERSON
GUY DAVID HOLLIDAY
JEFFREY LEE HOLLOWAY
PETER RANDALL HULL
BRUCE WAYNE INGHAM
STEVEN JOHN KNAPKE
MICHAEL FRANCIS KUHN
ALLAN R. NADOLSKI
RYNN BARRINGTON OLSEN
BETH ELAINE PATRIDGE
DEIDRE HALL PISTOCHINI
JAMES ROBIN REDDIG
DANIEL NMN RUBBO
PHILIP ROBERTS SCOTTSMITH
MICHAEL ALEXANDER SLOAN
MICHAEL ALLEN STANDRIDGE
JAY MORGAN TWEED
BRUCE ROKURO WILKINSON
STUART ALLEN YAAP
WILLIAM DEWEY YOPP

SPECIAL DUTY OFFICERS (PUBLIC AFFAIRS)

To be commander

ROBERT KOLB ANDERSON
STEPHEN BRIAN BURNETT
CHARLES MILTON FRANKLIN
NETTIE REGINA JOHNSON
JOSEPH H. MARCH
DAVID W. MORRIS
KEVIN MARC MUKRI
STEPHEN RICHARD PIETROPAOLI
JEFFREY PATRICK SMALLWOOD
JOHN MORGAN SMITH
ALFRED R. TWYMAN

SPECIAL DUTY OFFICERS (OCEANOGRAPHY)

To be commander

WESLEY ALAN BARTON
LESTER ELLIOTT CARR, III
WILLIAM T. CURRY
MARK DIUNIZIO
CHRISTOPER GUNDERSON
CLIFFORD D. JOHNSON
WALTER B. KINDERGAN
TIMOTHY JAMES MCGEE
DANIEL VANAUSDAL MUNGER
WILLIAM EDGAR PERTLE
FREDERICK RICHARD PFEIL
HARDI SIEGFRIED ROSNER
BRETT TYLER SHERMAN
RAY C. SIMMONS
JEROEN JOHANNES WATERREUS
ERIC J. WRIGHT

LIMITED DUTY OFFICERS (LINE)

To be commander

BRUCE JOSEPH ACTON
DANIEL BARRS
THOMAS STUART BENSON
RALPH JOSEPH BOYER, JR.
DAVID ALAN CRUTZ
PETER LLOYD DARLING
MICHAEL LEE DICKENSON
FLOYD EDWARD ENGLISH
RICHARD PATRICK GILBOY
CHARLES MICHAEL HARRIS
GERALD EARL HART
NORMAN TIMHOY HO
JAMES WESLEY HOLLAND, JR.
RICHARD LEE JAMES
JOEL ERNEST KERSTETER
JOHN FRANCIS KIMMEL, JR.
DAVID RICHARD KRAMER
JOHN H. KUREK
JAMES LAWRENCE KURIGER
ROBERT EARL LEMASTER
JOHN FREDRICK LUNDGREN
THOMAS WILLIAM MCCARTHY
JEFFERY LEE MCCOMB
WILLIAM DENIS MELAY
CHARLES HOWARD MUNTER
CHARLES LEWIS MURPHY, JR.
RICHARD KEVIN PRENDERGAST
WILLIAM JOSEPH RUTLAND, JR.
ALAN JEROME SALA
RICHARD THOMAS SANSOM
JERRY MAX SIMMONS
JOHN CLARK SIMMONS
FRANK HENRY SIMONDS, JR.
ISAAC HERMAN SMITH, JR.
SAMUEL MELVIN SMITH, JR.
GERALD WAYNE SOUZA
DANNY VAUGHAN
ROBERT LAWRENCE WHELAN
MICHAEL EDWARD WILLIAMS
GARY L. WILLIS
WILLIAM EDWARD WOODS, JR.

THE FOLLOWING NAMED LIEUTENANT COMMANDERS OF THE RESERVE OF THE U.S. NAVY FOR PERMANENT PROMOTION TO THE GRADE OF COMMANDER IN THE LINE, IN THE COMPETITIVE CATEGORY AS INDICATED, PURSUANT TO THE PROVISIONS OF TITLE 10, UNITED STATES CODE, SECTION 5912:

UNRESTRICTED LINE OFFICERS

To be commander

BRUCE ALLEN ABBOTT
MELINDA LEE ADAMS
ROBERT KEITH ADAMS, JR.
HENRY MITCHELL ALBRIGHT
JAMES K. ANDERSEN
JAMES CHRISTIAN ANDERSEN
DAVID OWEN ANDERSON
DEBRA KAY ANDERSON
RICHARD ANDERSON
RICHARD JOSEPH ANDES
JOEL LINN ANDREWS
STEPHEN BRADFORD ANTLE
STEPHEN EDWARD ARMSTRONG
BRAMWELL BAKER ARNOLD, JR.
HOWARD BERNARD ASCHWALD, JR.
TRIN JAMES ASTRELLA, JR.
TROY GARLAND AVERA, JR.
BRETT DAVID AYOTTE
TERRY LEE BACHMAN
MICHAEL SCOTT BAILEY
MARY ELIZABETH JOAN BALE
ROBERT FRANKLIN BALES, JR.
THOMAS ALLAN BARBER
JON LEONARD BARKEE
DAVID RICHARD BARNES
MARK DAVID BAUER
LARRY LEE BAXA
DONALD CREIG BEAHM
WILLIAM CLAY BEARDEN
RONALD ANTHONY BEASLEY
TERREL VERNE BECKHAM, JR.
VINCENT ALOYSIUS BELLEZZA
ROBERT D BELLING
JUDITH JOAN BENDIG
TOMMIE DOUGLAS BENEFIELD, JR.
DAVID RAYMOND BENNETT
ROBERT C. BENTON
RICHARD CHARLES BERG
BRUCE BALKCOM BEVARD
JAMES ROBERT BLAA, JR.
WILLIAM ALLEN BLAIR
DAVID R. BLAKE
THOMAS H. BLAKE
GREGGORY DEEN BOATRIGHT
NANCY KONRAD BOICE
JOHN ROBERT BOLTON
THOMAS H. BOND
GERALD L. BONNETT
WILLARD RALPH BONWIT, JR.
RICHARD WILLIAM BORCHARDT
MORRIS R. BOSARGE
MARK MCGREGOR BOSWELL
JAMES LEO BOWMAN
MICHAEL BERNARD BRANDS
GEORGE ALBERT BRATTON, IV
RICHARD LEE BRAZELL
MARK KEVIN BRAZIER
KURT J. BREGAR
RICHARD LEE BRUMMITT
MICHAEL DAVID BRUNO
CHRISTOPHER JAMES BUEHRIG
JO ANNE BURKLUND
JON DAVID BURNETTE
MICHAEL JOSEPH BUSSONE
VINCENT PHILLIP CAGGIA, JR.
JAMES JOSEPH CAIN
EIRC RAY CALDWELL
MICHAEL CALLAHAN
ALBERT SIDNEY CAMP
JAMES PETER CAMPBELL
KENNETH W. CAMPBELL
GEORGE GUYTON CANNADY
LEONARD S. CARITA, JR.
WENDI BRYAN CARPENTER
TIMOTHY C. CASSIDY
KEVIN BRETT CELLARS
RUSSELL PAUL CEPKO
WILLIAM DMYTRO CHARUK
ERIK NMN CHAUM
LARRY GLENN CHENEY
JOSEPH DWYER CHISHOLM
KEVIN JOSEPH CLARK
MICHAEL PATRICK CLARK
JOHN PATRICK COFFEY
DONALD P. CONNERS
GLADYS TWINING CONNOLLY
ROBERT DAVID CONWAY
THOMAS BRODERICK COOK
JOHN MARK COPPIC
RICHARD S. CORNISH
CHRISTOPHER M. CORRIGAN
BARRY ALLEN COSTA
KEITH HOWARD COX
RICHARD SPENCER CRAMER
JAMES R. CRANFORD
RAYMOND PAUL CREVIER, JR.
ROBERT KENNETH CRIM
RICHARD LEE CROCKER
STEPHEN HARRISON CROW
ANDREW JAMES CUCA
CLARENCE WILLIAM CULWELL, JR.
CHRISTOPHER B. CYRWAY
RICHARD ARTHUR DAPRATO
PAUL RAYMOND DAUPHINAIS
MICHAEL FRANCIS DAVIDSON
GERALD RICHARD DAVIS
STUART MORRISON DAVIS
PIERS LINCOLN DAWSON
DAVID BERNARD DEARIE
NORMAN DELLINGER
HARRY SCOTT DENSON
DAVID MICHAEL DESILVA
JAMES DEUSER
CHRISTINE WHITTIER DICKMAN
DAVID JOHN DIMATTEO
PETER M. DIRGA
GREGORY STEPHEN DISHART
JOSEPH A. DIVITO
RICHARD GLAZIER DODSON
GORDON LAWRENCE DONA
KEVIN DONAHUE
PATRICK JOSEPH DONOVAN
LINDA LOU BORGES DUBOIS
MACK D. DUETT
WAYNE D. DUFFALA
RICHARD KIT DUNCAN
MICHAEL JAMES DWYER
JOSEPH MICHAEL EAGAN
WESLEY KARL EBEN
CHARLES HILAN EBERT
MICHAEL CECIL EIDE
ROBERT OSWALD EIDE
CHARLES EARL ENOS
JOHN WAYNE EPPERT, III
DENNIS DONALD ERDT
MARIE SMITH ERNST
CLARKE MARVIN ERWIN
EMIL PAUL ESCHENBURG, JR.
RICHARD TIMOTHY ESTES
ANGELIKA MASON EVANGELIST
BRUCE PAUL EVJEN
JEFFERSON EWIN
ROBERT JACOB FALLON
TIMOTHY JOSEPH FARRELL
CHARLES STEPHEN FARRELL, JR.
DANIEL NICHOLAS FAZIO
LEVERNE PERRY FERNANDEZ
MARY ELLEN FETHERSTON
JAMES A. FIORELLI
MARCUS JOHN FISK
JOYCE DAUGHERTY FLEISCHMAN
KEVIN WILLIAM FLEMING
WILLIAM JAMES FLEMING
GLENN ALAN FLETCHER
DUNCAN KIEFER FOBES
DAVID LAWRENCE FOOTE
JOSEPH MICHAEL FOSTER
DOUGLAS W. FRANK
DAVID VAN FULWIDER
GARY P. GAMBARANI
STEPHEN MICHAEL GANN
BENJAMIN GARCIA
LEE A. GARD
JOHN G. GARDINER
JOE WHEELER GARRETT, II
RONALD PAUL GAST
STEPHEN GATES, JR.
MAURICE KEITH GAUTHIER
PETER FRANCIS GAZDA
JAMES HOWARD GENTILE
PAUL STEVEN GERARD
MARK KLINE GERFIN
ERIC FRANCIS GERMAIN
ROBERT NORMAN GEST, JR.
MARK BRADFORD GHEEN
ROBERT MARKS GILL
JAMES IGNATIUS GILLESPIE
KIMBERLY S. GLASGOW
RICHARD ALAN GOLDSMITH
CLARK BERNARD GOODLETT
ROBERT A. GOODRUM
TIMOTHY ERNEST GOODWIN
TAYLOR J. GORDON
ROBERT LAWRENCE GOVETT
RICHARD F. GOWARD, JR.
CHARLES MARION GRAY, III
STEVEN P. GRUBE
ALAN H. GUREVICH
DAVID E. GUZA
FREDRIC W. HABERMAN, JR.
SEBASTIAN CHARLES HAFER
PAUL RICHARD HALEY
JUERGEN GARY HALF
DAVID RUSSELL HALL
DON PAUL HAMBLEN
EARL K. HAMILTON
CLARK D. HANDY
RICHARD P. HANSEN
JAMES CHRYSOSTOM HARKINS
THOMAS P. HARRISON
WILLIAM EDWARD HART
SILAS CLINTON HART, III
DARRELL R. HARTSIG
CRAIG TAYLOR HARVEY
EDWARD PAUL HARVEY, JR.
ALFRED JAMES HASS, II
TODD NELSON HATHAWAY
DANIEL LEE HATTEN
TIMOTHY X. HAUCK
JOHN S. HAYNES
JEFFREY A. HEDGES
WILLIAM GEORGE HEDSTROM
FREDERICK EDWARD HEIMANN, JR.
DAVID W. HEINTZMAN
ROBERT JOHN HEISTER, JR.
MICHAEL P. HELMS
FRED ARTHUR HENDRICKS, JR.
EDWIN STUART HENRY
BRUCE NEIL HEYWOOD
STEVEN RAYMOND HIBBS
JACK C. HICKS
WILLIAM GREGORY HIGGINS
THOMAS L. HITCHCOCK
MATTHEW MCWAIN HODGINS
ROBERT LOUIS HOGAN
NELSON CHAPPELL HOLLY
NEIL GARY HOLT, JR.
NATHAN CRAIG HOLWAY, JR.
FREDDIE LEE HOLYFIELD
FORREST TERREL HONDERICH
RICHARD PAUL HUBBARD
MICHAEL E. HUBER
BETH EVELYN HUBERT
BARRY EDWARD HUDSPETH
THOMAS LEE HULL
RICHARD JOSEPH HUMENUCK
NORMAN ROGER HUMITZ
GORDON KEITH HUNEGS
ROBERT A. HUNT
FRANCIS ALOYSIUS HUNT, JR.
JOHN MAYNARD HURST
DAVID GRAY IRELAND
RUSSELL HAROLD IRVINE
STEVEN DALE IVANS
MARC EDWARD IVERSON
CHARLES GREGORY IVEY
WILLIAM KING JANSSON
REED KEITH JARVI
JOHN ELBERT JAYNES
PATRICIA ANNE JEDREY
ROBERT K. JEFFERIES, III
JAMES JOSEPH JEFFRIES
CHRISTOPHER H. JENSEN
DOUGLAS STUART JOHNSON
GREGORY CARL JOHNSON
MICHAEL R. JOHNSON
WILLIARD CHARLES JOHNSON
ALBERT M. JONES
BRADLEY WILLIAM JONES
ROBERT EDMUND JONES, JR.
THOMAS ANTHONY KACHMAR
JOHN ROBERT KAISER
ERIC ALAN KALISKY
PAUL LEONARD KALLAND
JAMES LEWIS KANTNER
EUGENE KARSTENS
OWEN NORIO KAWAMOTO
TIMOTHY BLAISE KEEN
GEORGE ROY KELL
MICHAEL J. KEMPF
STEVEN PAUL KERCH
ROBERT S. KIDD
TERRENCE MICHAEL KILMAN
MARTIN ALAN KIMBALL
MARVIN EARL KING
LAWRENCE PHILIP KIRWAN
JOHN L. KITTLER
PATRICIA ANNE KLAUER
JOHN P. KLOSE
KIM DAVID KLUGE
GARY LLOYD KNOCK
MARK BERNARD KOERBER
MELVIN RICHARD KOHLER
BRIAN ELLIOTT KONSUGAR
JUSTINE FRANCES G. KOSCIELNY
ANDRZEJ WLADYSLAW KOWALSKI
WILLIAM H. KRAMER
NICHOLAS DMYTRO KRAWEC
KEVIN MICHAEL KUZEL
HENRY J. KUZMA
RAYMOND REED KWONG
MICHAEL SMITH KYNETT
JOHN F. LADEMAN
BRADLEY N. LANZER
GRANVILLE D. LASSETER, II
KENNETH M. LAW
THOMAS KING LAWMAN
MICHAEL E. LEBIEDZ
STEVEN BLODGETT LEE
CAROLYN DUSTY LEEF
JAMES JOSEPH LEHMAN
JAMES PHILIP LESTER
STEPHEN ARTHUR LEWIS
PHILIP A. LEWIS, JR.
PAUL ANTHONY LIBERATORE
WILLIAM TIMOTHY LILES
GERARD JOHN LINK
FRANCIS J. LIPOVSEK
DIANE MARIE LORENZ
CHERYL CHIEKO LOUIE
FREDERICK WAYNE LUCCI
STEVEN JOHN LUCKS
LANE CLAYTON LYNCH
MARIANNE MCGRATH LYNCH
WALTER KAY MAGINNIS, JR.
MICHAEL J. MAKOWICZ
WILLIAM ALBERT MALEHORN
ALLYN FERRIS MALLORY
JOHN EDWARD MANIGO
GREGORY A. MANKEY
EVERTON GERSHAM MARTIN
JOHN CHARLES MARTIN
JANE ELLEN MARTINSON
CHRISTOPHER WILLIAM MAY
CHARLES HAYS MAYNARD
ROBERT L. MCCABE
MICHAEL EUGENE MCCAFFREY

FRANCIS IRWIN MCCLELLAN
ALFRED EMMANUEL MCCOOEY, JR.
JAMES DOUGLAS MCCUISTION
MICHAEL SCOTT MCDONNOLD
PAUL ERWIN MCGILVRAY
ROBERT ALAN MCLEAN
CHRISTINE MARIE MCMAHON
ALLEN DOUGLAS MEDLIN
JOHN WILSON MELEAR
MARK ALLEN MELNICOFF
KENNETH LEIGHTON MERRICK
DEAN THOMAS METTAM
DOUGLAS R. MEYER
WILLIAM OLIVER MEYERS
JOHN E. MIESNER
KERWIN EUGENE MILLER
SCOTT EUGENE MINER
PATRICK JOSEPH MISKELL
JOHN JOSEPH MITCHARD
ALAN LEROY MOLL
WAYNE EUGENE MOLNAR
BERNARD LEWIS MOORE
GUY HOLLISTER MORGAN
JOHN LLOYD MORRIS
TUNIS BRADLEY MORROW
DAVID ARTHUR MORSE
THOMAS WHALEN MORSE
JAMES JOSEPH MOSCARDINI
SAVINO NICHOLAS MOSCARIELLO
ANTHONY STEPHAN MULFORD
SHERRY VANITA MULVANEY
MARK A. MUNSON
JOHN STEPHEN MURDOCK
GUY VICTOR MURRAY
WILLIAM THEODORE MYERS, JR.
JEFFREY ALAN NAUS
JOHN JOSEPH NEEDHAM
BILL NEGRON
SCOTT TRIMBLE NEIDHOLD
ELMER J. NELSON
ROGER LEE NIELSON
BRENT J. OBENOUR
THOMAS O. OBRYANT
KEVIN BARRY OCONNELL
JOHN H. ODONNELL, II
CHARLES R. OGLE, JR.
VINCENT CHARLES OLIVER, JR.
BYRON WESLEY OLSON
CRAIG P. OSTREM
WILLIAM ANTHONY OTT
CHARLES EDWARD OVERCASH, JR.
PATRICK RYAN PARIS
JAMES CECIL PARKS
STEPHEN JOHN PATERNOSTER
MICHAEL JOHN PELLOTH
DAVID ALLAN PETERSON
JAMES PHIPPS PETTIT
MARK JOSEPH PFUNDSTEIN
EDWIN A. PHELPS, III
LESTER LEROY PHILLIPS, III
PEYTON ELWOOD PHILLIPS, III
EARL WENDELL PHILLIPS, JR.
JOHN RADCLIFF PHIPPS, JR.
RENALDO P. PILI
THEODORE S. PITERA
PAUL DOUGLAS PITZER
WILLIAM DANA POLLOCK
ANDREW N. POULOS
TEN EYCK BRONK POWELL, III
DUANE ALLAN POWERS
CARL WILLIAM PRO
SCOTT M. PROVOW
MICHAEL CHRISTOPHER PURCELL
WILLIAM RAYMOND PYE
JOHN R. PRYON, JR.
ROBERT GERARD QUIRK
RICHARD LYNDON RADER
JAMES MICHAEL RAY
ROBERT BARRY REDDINGTON
GARY LEON REGLIN
DENNIS J. REILLY
ROBERT FOSTER RESCINITO
STEVEN W. RESS
HOBSON REYNOLDS
LARRY JOHN RHEA
MICHAEL THOMAS RIBBLE
ROBERT JOSEPH RICHARDS
STANLEY R. RICHARDSON
RICHARD E. ROBEY
RICHARD R. ROBIDOUX
ROBERT A. ROCHAU
JOHN H. ROGERS
JOHN PHILIP ROGERS
MELVIN CLAUDE ROGERS, JR.
JOHN L. ROGITZ
RICHARD JOHN ROMAC, II
JOHN JOSEPH ROONEY, JR.
CHARLES THOMAS ROSENBERG
JOHN W. ROSS
STEPHEN VINCENT ROTH
SIETZE J. ROTTON
JOHN CARL ROYCE, JR.
MARK FRANCIS ROZWELL
MICHAEL LEONARD RUNALS
RALPH SCOTT RUPPERT
LARRY LEE RUTLEDGE
CHRISTOPHER J. RYAN
PATRICK W. RYAN
WILLIAM RAYMOND RYAN
VINCENT S. SADD
GUS NMN SAMBRANO
STEPHEN WAYNE SANDERS
JOHN H. SANDSTROM
KATHERINE LOVEJOY SANFORD
RALPH P. SCAFFIDI
MICHAEL A. SCHALL
DANIEL J. SCHENKE
RICHARD ERIC SCHIEFEN
KENNETH TARCISIUS SCHMIDT
PAUL STEVEN SCHMITT
WILLIAM EDWARD SCHMITT
JEFFREY ALLEN SCHMITZ
WILLIAM J. SCHNEIDER
ROBERT J. SCHOLES
MARK THOMAS SCHOONOVER
RONALD REID SCHOWE
MICHAEL CHRISTOPH SCHROEDER
DAVID ARTHUR SCOTT
JOHN DAVID SCOTT
GEORGE JOSEPH SCOTT, III
RANDALL ALLEN SEAWARD
CHESTER J. SETO
KARL R. SETTE
RICHARD CLARK SEVERS
JAMES WEBER SHELTON, JR.
MICHAEL SHINEGO
LOUIS CRISPIN SIMMONS
MARK STEPHEN SIMPSON
VICTORIA GERMINO SKINNER
JOHN P. SKOGSBERG
RODNEY WILLIAM SKOTTY
DAVID L. SMITH
JAMES FLOYD SMITH
NEAL FREDERICK SMITH
PAUL GILBERT SMITH
RANDY GENE SODERHOLM
WILLIAM W. SOER
STANLEY A. SOWINSKI
RICHARD PATRICK SPURR
MICHAEL NMN STAVREFF
RAYMOND TREECE STEARNS
KEITH EDWARD STEIGER
AUTHOR L. STEPHENS
FREDRIC MILO STEPHENS
JEFFREY MICHAEL STEVENSON
MICHELE VALERIE STICKNEY
ROBERT A. STOBAUGH
JOHN MICHAEL STOELTING
JOHN SHELDON STRATEMEIER
PAUL JOSEPH STREETER
STEPHEN ANDREW SUSKO
GRANT DEAN SUTHERLAND, JR.
STEPHEN DOUGLAS SWAZEE
DAVID ALEXANDER SWINGLE
PAUL DAVID TANZAR
JOHN DENNIS TATE
TIMOTHY OREN TAYLOR
LAURISTON SALE TAYLOR, III
LYNN GENE TEPPEN
PHILIP ANTHONY TESTA
BRADLEY THOMANN
DARYL SCOTT THOMPSON
JAMES ALAN THOMPSON
LAWRENCE EARL THOMPSON
ROBERTA LYNN THOMPSON
STEVEN MICHAEL THRAIKILL
BARRY M. TILDEN
WILLIAM EUGENE TILLERSON, JR.
HENRY HELLMUT TINGLER
MARK MATTHEW TRENOR
MARC L. TROIANI
STEPHEN HOWARD S. TRYON
MICHAEL D. TSCHILTZ
ROBERT URBAN TUOHY
DIANNA MARIE TURMAN
M.R. VALENSTEIN
EDGAR BAGOYO VALERA
JOEL KENT VANDERWALL
JOHN CHRISTOPHER VANFOSSAN
ANTHONY JOSEPH VELLUCCI
JOHN R. VERBRYCKE
STEPHEN JAMES VESTER
PAUL JOSEPH VONHOENE
WILLIAM H. WALKER
CHARLES DAVID WALTERS
STEWART T. WARREN
MICHAEL NMI WATSON
AARON D. WATTS
THOMAS PHILLIP WAYNE
PETER HARTY WELLS
CHARLES MICHAEL WEST
BRIAN MICHAEL WHITED
GARY ALAN WILLIAMS
THOMAS H. WILLIAMS
WAYNE LESLIE WILLIAMS
DONALD EUGENE WILSON
ELDON J. WILSON
RICK DOUGLASS WILSON
STEPHEN R. WILSON
ROBERT GEORGE WILSON, JR.
JAMES ARTHUR WILTSHIRE
ARNETT J. WISE
WILLIAM F. WOLF
CRAIG STANISLAUS WOLFSON
DONALD L. WOLVEN
DAVID ELLIOTT WRIGHT
ROBERT PAUL WRIGHT
BENJAMIN SAMUEL YATES
FRANCES YATES
ALLEN CHARLES YOUNG
JAMES M. ZAHORNACKY
STEVE RICHARD ZELL

UNRESTRICTED LINE OFFICERS (TAR)

To be commander

TIMOTHY ALLEN BEATTY
DUANE ARTHUR BEAUCHAINE
BRENDA ERCELLE BLACKWELL
JOE CAMERON BLAKE
MICHAEL FRANCIS BOYER
TERRY ARTHUR BRAGG
ANDREW ALAN BRIGGS
SARAH LOUISE BROWN
WILLIAM MICHAEL CHRISTY
ANN MARIA CLARK
BOOKS ALLEN COBURN
RICHARD H COYLE
DAVID W CUTTINO
JEAN M DANIELS
MILES PATRICK DEAN
KENNETH M DEEBLE
CHRIS RAY DEMPSEY
GLENN EMERSON DOTEN
NORMAN J FARLEY
PAUL MICHAEL FERMOILE
MICHAEL STEVEN GIORGINO
KENNETH I GOLDBERG
JOHN WARFIELD HARDY
JOSEPH DANIEL HARRINGTON
WILLIAM GARY HARRISON
MICHAEL JOHN HIGGS
ROBERT I HOWARD
WILLIAM HENRY HUFHAM
VICKI LYNN KAINZ
DONALD J KSIAZEK
KEVIN JAMES LASHER
FREDERICK WOODWARD LEITH
ARLEN E LIPPERT
JOHN PAUL LUMETTA
CARL MARTIN MAYABB
BARRY GENE MCFARLAND
MICHAEL B MCGEE
JOHN W MICKELSON
MARTHA ANN MITCHELL
ARCHIE NMN MITCHELL, JR
JOSEPH A MOLINARI
PAUL M MOLLOY
KATHY READING MOORE
LASZLO GEZA NEUWIRTH
SHERRY RUTH NEWTON
PAUL FISK PAINE
THOMAS R PALMER
SCOTT A PARKER
DAVID MICHAEL PERDUE
ROBERT HANSON PORTER
WILLIAM PAUL RAMSEY
BRUCE ALAN RASMUSSEN
STEVEN MICHAEL REYNOLDS
VICTOR GORE RISTVEDT, JR
STANLEY R RODMAN
DONALD LEO ROY
RONALD JOHN RUNDSTEDT
RICHARD S SAUNDERS
RHONDA JEAN SHAFFER
TERRY PAUL SHEPERSKY
MICHAEL JON SHEWCHUK
SELVEN LAYNE SMITH
KEVIN J SULLIVAN
ROBERT JAMES SWANSON
ROBERT LEE SYKES
MALCOLM DEWEY TIGNOR, JR
DONALD LOUIS URQUIDEZ
ROBERT ALAN VOGT
CAROL M WALES
JOHN R WEBSTER
JOHN WAYNE WESTBROOK
BARY C. WILLCOX
DAVID MICHAEL WOLCHKO, JR.
SUSAN WESTON WOLFE
TERRAY E. WOOD

ENGINEERING DUTY OFFICERS

To be commander

PATRICK JOSEPH BROWN
KENNARD MICHAEL BUDDENBOHN
JAMES L. BUTLER
MICHAEL DUNN CARATHERS
STEPHEN CRAIG COSSEL
FRED L. CURRY
ROCKIE JEB DELOACH
THEODORE FRANK LAGERGREN
EDWIN GERARD LANDAUER
WILLIAM LEVIS
ALVIN WARREN LIPPITT
ROBERT GLYNN MINER
JAMES EDWARD MUSICK
DAVID ANTHONY OBRIEN
PHILIP JOHN ROGERS
LAURA DENISE STUBBS
DONALD JOSEPH WALSH

AEROSPACE ENGINEERING DUTY OFFICERS (ENGINEERING)

To be commander

SEAN PAUL CROOK
WILLIAM NELSON JACKSON
BENJAMIN BURNHAM JAMES, III
KEVIN TED MABIE
JEFFREY EDWARD PINKEL
ROGER ALLEN YOUNG

AEROSPACE ENGINEERING DUTY OFFICERS (MAINTENANCE)

To be commander

DANNY BILL HODGE
MICHAEL LEE MAUCK
PHILLIP REGINALD POPPELL
FRANK WESLEY THOMSON
DAVID ALLEN ZORYCHTA

SPECIAL DUTY OFFICERS (MERCHANT MARINE)

To be commander

JEFFREY DOUGLAS ADAMSON
JOHN YOUNG ALLISON
MICHAEL TIMOTHY MONAHAN
ANTHONY HARRY MURRAY, III
TIMOTHY LEWIS ONEIL
JOHN GEORGE PETERLIN, III
RANDALL LOUIS PINETTI
THOMAS KOEP ROSE
JOHN FREDERICK WHITELEY
MATTHEW GEORGE WILKENS

SPECIAL DUTY OFFICERS (CRYPTOLOGY)

To be commander

THOMAS STALEY HAWTHORNE
RONALD EUGENE HECOX
DAVID WAYNE LEE
GORDON EUGENE MEEK, II
RONALD GEORGE MIHALEY
ANTHONY FRANK QUIDATANO, JR.
GEORGE WESLEY SMITH, JR.
RANDELL C. SMITH, JR.

SPECIAL DUTY OFFICERS (INTELLIGENCE)

To be commander

FORREST HARRY ALLISON, II
EUGENE BOJARSKI
DOUGLAS CREIGHTON CLARK
LEONARD ALBERT CURTIS, II
RUSTIN ECKSTROM
DENIS WILLIAM FLOOD
JOHN A. FLORIO
DAVID PATRIC FRANCZYK
HILLMAN PATTEN
EDWARD GREGORY SCHEUMANN
ALAN KARL SCHNEIDER
CONSTANCE MARIE SENKOWSKI
COLLEEN CALHOUN THOMAS
DANIEL IVES TYLER

SPECIAL DUTY OFFICERS (INTELLIGENCE) (TAR)

To be commander

FRANK JOHN GIBLIN
KENNETH ROBERT NEWTON
HENRY JORDAN OLDFIELD

SPECIAL DUTY OFFICERS (PUBLIC AFFAIRS)

To be commander

RUDOLPH WILLIAM BREWINGTON
BARTON BUECHNER
WILLIAM LESTER HENDRIX
EMILY HYDE HOPKINS
BARBARA ANN KIELY
PATRICIA JANE LARSON
PAUL WILLIAM LOHNES, II
THOMAS MICHAEL PLANTENBERG
WILLIAM BRUCE SPIHER
GERARD JUDE WILLETT

SPECIAL DUTY OFFICERS (OCEANOGRAPHY)

To be commander

DAVID CHRISTOPHER COPLEY
LARRY D. PHEGLEY

LIMITED DUTY OFFICERS (LINE)

To be commander

JOHN GRIMES DONAHUE
ROBERT CHARLES LINDER
MALCOLM CONRAD MCCOLLUM
THOMAS JOSEPH OBRIEN
RALPH REITZ
EDWARD HERMANN SCHEYE

EXTENSIONS OF REMARKS

A TRIBUTE TO THE HON. JOANNE VANZANDT

HON. FRANK HORTON

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 12, 1992

Mr. HORTON. Mr. Speaker, I would like to take this opportunity to honor my good friend and constituent, the Hon. Joanne VanZandt of Pittsford, NY. Joanne is retiring after 10 years of outstanding service in the Monroe County Legislature.

During her tenure in the Monroe County Legislature, she was chairman of the Planning and Economic Development Committee, assistant majority leader, and vice chairman of the Ways and Means Committee. She served as president of the legislature in 1987. Her commitment to this legislative body also included the Public Works, Transportation and Intergovernmental Relations Committees, the Pure Waters, Regional Planning, Finger Lakes Association, and the New York State Association of Counties Task Force on Education of the Handicapped. She is a board member of Arts for Greater Rochester, the Landmark Society, the Monroe County Industrial Development Corp., the Catholic Diocesan Foundation, and Girl Scouts Advisory Board.

In addition to her many legislative and civic contributions, Joanne has shared her considerable political expertise with the Monroe County and National Republican Committees. She was county coordinator of the Reagan/Bush campaign in 1984 and county coordinator of Senator ALFONSE D'AMATO's State Senate campaign in 1986. She has also supported her local Republican candidates, and is visible at any political event in the Rochester and Monroe County area. Joanne VanZandt is a significant role model for any aspiring Republican political candidate.

On a personal note, Joanne and her husband, Dr. Theodore VanZandt, chief of radiology at the Rochester General Hospital and professor at the University of Rochester Medical School, have four children and one grandchild.

She was very active in the local school districts during her childrens' younger years, and has also been a loyal and dedicated member of her church.

Joanne VanZandt is certainly one of the outstanding women of the Rochester and Monroe County area. I am pleased and privileged to honor her today on behalf of her many friends and fellow Republicans. She is to be commended and applauded for her intense commitment to her career, her family, and the Republican Party.

Thank you Joanne and we all wish you health and happiness in the future as you enter this new phase of your life.

A CONGRESSIONAL SALUTE TO OFFICER LARRY BULLOCK

HON. GLENN M. ANDERSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 12, 1992

Mr. ANDERSON. Mr. Speaker, Thursday, June 18, 1992, marked the retirement of one of the Los Angeles Police Department's finest officers, Larry Bullock. It is with great pleasure that I rise today to pay tribute to this exceptional individual who has served our community with great distinction.

Graduating from El Segundo High School, Larry attended El Camino Junior College, Harbor Junior College, and U.C.L.A. He entered the Police Academy on March 20, 1972, and following his graduation was assigned to the Venice Patrol Division. Nine years after he entered the Academy, on April 7, 1981, Larry Bullock was appointed Police Officer III. As a 20-year veteran with the department, Larry has held many posts from the communications division to the SWAT division to the harbor patrol division.

While performing his various official duties, Larry has also been involved with many special events associated with the department. He participated in the Death Valley/Baker-Vegas relay, the State and International Police Olympics, and the World Police and Fire Games. Taking part in these competitive activities comes naturally to Larry as he is an avid sportsman. Larry's hobbies include running, skiing, fishing, hiking, and marksmanship.

Now a new challenge will be met. Officer Larry Bullock will enter the Huntington Beach Police Department. No one doubts that he will serve this department with the same enthusiasm as he did the L.A.P.D.

Mr. Speaker, my wife, Lee, joins me in extending this congressional salute to Larry Bullock. We wish Larry, his wife, Sheri, and their children, Jeff Bullock, Eric Williamson, and Debbie Bullock, all the best in the years to come.

A TRIBUTE TO THE PRIVATE INDUSTRY COUNCIL OF SAN MATEO COUNTY

HON. TOM LANTOS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 12, 1992

Mr. LANTOS. Mr. Speaker, today I would like to pay tribute to the Private Industry Council of San Mateo [PIC] for its outstanding accomplishments in the field of job training. One of its programs, the Operating Room Technician Program, was recently the recipient of the prestigious Presidential Award for Outstanding Job Training Partnership Act Program. A model organization, PIC continues to prove itself as a highly innovative enterprise.

The Operating Training Program, a joint venture between Kaiser Hospital and PIC, was created in order to instruct Job Training Partnership Act clients in Redwood City, CA. Offering an intensive 9-month training program is operating room procedure, the program has been highly successful.

Thirteen unemployed individuals enrolled in the training program, and all of them graduated 9 months later. Most of these people were single-parent mothers on welfare. They are now highly trained technicians who command $14 an hour in their new jobs.

One of the program graduates, Vanessa Joiner, came to the program at the age of 18. She was the mother of an 18-month-old child. She had no job skills. Upon her successful completion of the program, she was hired by Kaiser Hospital in Redwood City. She now makes $27,500 a year and is considering further study in the field of medicine.

PIC is helping people realize their dream of providing for themselves and their families with dignity. A study in planning and resource management, PIC's success can be attributed to the guidance and vision demonstrated by its leaders, particularly Celeste Cron, PIC's president.

Mr. Speaker, I ask my colleagues to join me in honoring this excellent program.

BASEBALL IN 1992: OBSERVATIONS OF A FAN

HON. HENRY J. HYDE

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 12, 1992

Mr. HYDE. Mr. Speaker, If you've attended a professional baseball game recently, you'll be particularly interested in the comments of a big fan of the game, Wayne R. Serbin of Des Plaines, IL. He authored a recent letter—reprinted in the Daily Herald newspaper—in which he made a few important observations about the state of the game in 1992. Permit me to share his letter with my colleagues:

HIGH COST OF BASEBALL

Springtime may mean primary elections to your friendly local precinct captain. To any red-blooded American boy, though springtime means just one thing, BASEBALL. In order to attend a professional game today though, these young lads have to practically be a junior "Daddy Warbucks" or on an expense account. A seat in the bleachers at Wrigley Field now costs $7; souvenir Cubs clothing carry Brooks Brothers prices: $58 for a sweatshirt and $31 for a pair of shorts. For $2.50 you can quench your thirst at the Cubs game by swallowing a cup of Diet Pepsi.

I discussed these current baseball game expenses with a former athlete who played on an East Coast American League team. So he

will not be hassled by irate team owners and executives, this man's identity will remain anonymous. "The team players and administrators don't need the fans. They only tolerate them. They make their money off of multi-million dollar television rights. The ticket and vendor sales to fans are extra money to the teams," stated my anonymous friend. He told me that most players, who are earning million dollar plus salaries, charge fans $15 to $20 for an autograph.

Continued the former player. "In the old days, the teams had to depend on ticket and vendor sales as their major source of income. Star players were ever too happy to give young fans their autographs for free."

I might add that players did not command extravagant salaries either. "Gabby" Hartnett, the Hall of Fame Cubs player, after retirement, lived for many years in a three-flat apartment building in the middle class Chicago area near Foster and Kedzie Avenues. Can you imagine Ryne Sandberg retiring to such an area?

Have you heard the new opening lines of baseball's favorite favorite tune? They go like this: "Take me out to the ballgame, after I withdraw from the bank."

WAYNE R. SERBIN,
Des Plaines.

NEW ZEALAND REMEMBERS FIRST GI OFF THE BOAT

HON. MARY ROSE OAKAR

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 12, 1992

Ms. OAKAR. Mr. Speaker, just over 50 years ago, Nathan Cook, a constituent from my hometown of Cleveland, OH, achieved celebrity by being the first American soldier to go ashore in New Zealand. The drama of that singular incident was recalled recently in an article in the Plain Dealer. I am proud to share that moment with my colleagues and the many friends of Nathan Cook.

[From the Cleveland Plain Dealer, June 15, 1992]

DOWN A GANGPLANK TO HISTORY—NEW ZEALAND REMEMBERS FIRST GI OFF THE BOAT

(By Lou Mio)

Nathan Cook never figured to become a celebrity when he boarded a troop ship in California 50 years ago.

The U.S.S. *Uruguay* was jammed with troops from the 37th Infantry Division, the Ohio National Guard unit federalized by Washington and sent into action during World War II.

"I joined the guard July 15, 1940, before they were federalized," said Cook. "I was 30 at the time and figured, 'Why wait for the draft?' "

Four months later, the 37th became part of the Army. The Ohioans were shipped to Camp Shelby, Miss., for training, and by 1942 were en route to the war in the Pacific. Cook was a first sergeant in the 145th Infantry Regiment.

The 37th was headed for Auckland, New Zealand, and the Fiji Islands, part of the Allied buildup to strike back at the Japanese, unstoppable since the attack on Pearl Harbor and threatening to invade Australia.

"We didn't know our destination until a day and a half before we arrived in New Zealand," Cook said.

The troop commander on the *Uruguay* wanted to do something special since these were the first American soldiers to come ashore in New Zealand. Somebody on board had a sense of history and remembered the name of the English captain who discovered and chartered all of New Zealand in 1769—James Cook.

"Because we had the same name, the troop commander designated me to be the first man to walk down the gangplank," said Cook, 82, of Triskett Rd. "I recall the day pretty well. It was June 12 (1942). I was company first sergeant and kept all the records.

"We docked at Princess Wharf," Cook recalled. "I remember the thrill of being the first soldier down the gangplank, the excitement of the soldiers and the enthusiasm of the people watching us disembark."

Cook and the others in the convoy were the vanguard of an estimated 500,000 Americans who passed through New Zealand. Last October, David Conway, an Englishman, and Del Sutton, his New Zealand wife, organized Operation U.S. Down-Under when they learned that the government had nothing planned to commemorate the American presence during the war.

"I started it and dragged David in," said Sutton, of Auckland. The couple got things rolling with $11,000 (about $6,000 U.S.) of their own money, but little governmental support until Conway wound up being interviewed in New Zealand's largest newspaper.

"I gave the government a well-deserved blast for its meanness," he wrote in a letter to the 37th Division Association. "It had the desired effect, because we now have all the money we needed so desperately in October.

"We say that our project is a people-to-people expression of thanks from the people of NZ to the people of America for saving us from the unthinkable," he wrote.

"There were half a million Americans here during World War II," Conway said in a telephone interview from Auckland. "You people had quite an impact. Things like Coca-Cola and hamburgers."

Sutton and her family saw a lot of GIs up close. The Army set up Camp Euart—on their farm.

"My wife thought all New Zealand girls grew up with 5,000 Americans in the back garden," Conway said.

Conway and Sutton learned that Cook was the first American down the gangplank. They wanted to find him and bring him to New Zealand for this week's commemoration.

"I found out this month they were looking for me," Cook said. "I was surprised. It seems they were trying to get hold of me for a long time. There was a notice in the 37th Division newspaper. Somebody knew I was still around and called."

The prime minister of New Zealand offered to pay for Cook's trip. He had to decline.

"I checked with my doctor," said a disappointed Cook, who has emphysema and heart problems. "He said I would never stand it."

Undaunted, Conway contacted Cook and asked if he would say a few words on videotape. The tape was made Friday and sent to Conway.

"We want to show it in the Civic Theater in Auckland," Conway said. "It's a place Americans would know. The American ambassador will be there. Eleanor Roosevelt spoke there once."

American troops paraded down Queen St., the main street in Auckland, on June 19, 1942. The focal point of this commemoration will be a parade down the same street—50 years later.

Cook didn't stay too long in New Zealand. The 37th went into action about one month later and fought continuously for 23 days on the island of Mund in New Georgia. Torn ligaments from a knee injury playing sandlot baseball caught up with Cook, who had been promoted to second lieutenant.

He was sent home and eventually discharged in July 1944.

On the videotape, Cook came close to tears while talking about his stay in New Zealand and the friendliness of its people.

"Many families requested us to send six or seven soldiers for dinner," he recalled. "They were very hospitable people. Many of them threw parties for us and even hired entertainers."

"We were in New Zealand about five weeks," he said. "To a man, I can say we all loved New Zealand and its people. I think they thought the same of us."

Nathan Cook of Cleveland, a first sergeant with the 37th Infantry Division, was the first American soldier down the gangplank when GIs started to pour into New Zealand during World War II.

THE 50TH ANNIVERSARY OF DENNISON CANTEEN

HON. DOUGLAS APPLEGATE

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 12, 1992

Mr. APPLEGATE. Mr. Speaker, the victory of Allied Forces in World War II came about primarily due to the outstanding men and women in uniform who were guided by the higher principle of good conquering evil, but we should never forget the millions of men and women, those dedicated Americans who stayed behind and contributed to the war effort here on the homefront.

Probably one of the most outstanding contributions to our GI's came from the people who volunteered at the Dennison Canteen in Dennison, OH, a small community halfway between Pittsburgh and Columbus which served as a stopping off point for 1.5 million brave Americans who were headed off to war. The Dennison Canteen served free sandwiches and donuts along with coffee and fruit to the troops as they rode the rails across the United States. Most of all, it was a brief home away from home for those who faced uncertain futures in faraway battles while also holding onto their thoughts and memories of family, friends, and home.

The Salvation Army Canteen was known throughout the Nation and it came to be known as Dreamville, Ohio by many GI's. Operated out of Dennison's 1873 Pennsylvania Railroad Depot, the canteen saw continuous service from March 19, 1942 to April 8, 1946. Many of those who stopped at Dennison were so appreciative of the hospitality and goodwill that they were prompted to send letters to the citizens of Dreamville, such as the following:

I'd like to thank you people for the nicest thing that's happened to me since I've been in the service. Traveling east on furlough and then a change of camps we all felt tired, cold and hungry, when the train stopped at Dennison. We got off and helped ourselves to sandwiches, cookies, coffee, apples, etc. The rest of the night all the servicemen talked about was how nice your people were to wait up so late to do this. On this train were 40 boys going home on furlough after serving 14

months in Alaska and they couldn't get over this nice gesture by folks who could have been sleeping. Nothing like this ever happened to us before. For myself and these soldiers I thank you. God's blessing on you good people and the canteen.

Thank you sincerely,

Pvt. ANTHONY KIELBASA, 1943.

Mr. Speaker, if it wasn't for the Dennison Canteen and the outstanding volunteers who made it possible, I'm certain that our war effort would not have been as incredible and tremendous as it was during World War II. Just possibly, the greatest war in the history of mankind might have lasted tortuous months and years longer and many more of our brave and courageous young men and women may have ended up paying that ultimate sacrifice if it wasn't for Dennison and its citizens. They really did so much to make an important difference for so many of their fellow Americans.

I would like my congressional colleagues to join with me in honoring the citizens of Dennison and the recipients of their goodwill and generosity as they gather in this small Ohio town during the week of August 18 through 23 to celebrate the 50th anniversary of the canteen. Most of all, I want to commend Barbara Maurer for all that she has done in organizing this 50th anniversary celebration. As the canteen 1992 chairperson, Barb has demonstrated the same spirit of charity and generosity that greeted so many American GI's as they stopped off at Dennison so many years ago.

The Dennison Canteen represented so much of what was great and good about America 50 years ago, and the citizens of Dennison have been, and will continue to be remembered by countless numbers of grateful Americans who will long remember a cold and lonely night turned into a warm and friendly visit at a very special place in Ohio.

NORTHEAST PENNSYLVANIA GROUP RECOGNIZES SEPTEMBER 10 AS "NATIONAL ETHICS DAY"

HON. PAUL E. KANJORSKI

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 12, 1992

Mr. KANJORSKI. Mr. Speaker, I rise today to recognize the Ethics Institute of northeast Pennsylvania, a nonprofit organization in my district that is dedicated to promoting ethical decisionmaking. The constituents conducted many seminars and workshops on topics having to do with ethics in business, health, and the environment. The institute recognizes that ethics is a living philosophy, one that offers tools for developing national policy. I would like to take this opportunity to commend the Ethics Institute for its valuable contribution to highlighting the importance of maintaining high ethical standards in every area of life.

Since its establishment in 1988, the Ethics Institute of northeast Pennsylvania has been focused on increasing the understanding of contemporary ethical issues in business, education, government, politics, health care, and social services. Sister Siena Finley, executive director and founder of the Ethics Institute, has been called upon as a consultant to advise hospitals and other institutions with respect to ethics. Through lectures, workshop series, conferences, and continuing education programs, Sister Finley and other community leaders provide a nonpartisan forum to exchange thoughts and ideas on major ethical issues in society. To date, the institute has sponsored hundreds of programs and traveled to all parts of the Northeastern United States. The Ethics Institute of northeast Pennsylvania publishes a newsletter three times a year and prints newspaper articles on a monthly basis in its ongoing effort to provide a forum for ethical discussion.

September 10, 1992, will be recognized by the Ethics Institute as "National Ethics Day." As part of the commemorative events, a dinner will be held in Convention Hall In Pittston, PA.

Mr. Speaker, during a time when some of the toughest issues facing society are ethical ones, I want to call attention to the efforts of the Ethics Institute of northeast Pennsylvania for promoting the importance of ethics in business, government, education, politics, health care, and social services. Our Nation will remain only as strong as the strength of its ideals, and its ideals will endure only when realized with the highest ethical standards.

TRIBUTE TO THE NATIONAL COUNCIL FOR URBAN ECONOMIC DEVELOPMENT

HON. CHRISTOPHER SHAYS

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 12, 1992

Mr. SHAYS. Mr. Speaker, I rise to pay tribute to the National Council for Urban Economic Development [CUED] which is celebrating its 25th anniversary this year.

CUED was founded in 1967 by a group of urban leaders who wanted to create a national organization dealing with the problems of keeping businesses in our Nation's cities. Building a better urban America was the common concern shared by these economic development practitioners when they created this organization.

Known originally as the HUB [Helping Urban Businesses] Council, these city leaders adopted a new approach toward development in our Nation's communities and the evolution of the public private partnership was nurtured. Early leaders in the movement were people like Ed Deluca of Baltimore, Paul Zimmerer of Chicago, and Tom Kelly of Jersey City.

In the present day, CUED has been recognized for its predominance in the field by dignitaries such as Gov. George Voinovich of Ohio and former San Antonio Mayor Henry Cisneros, both who serve as ex-officio members of the CUED Board of Directors. Other current leaders who have been involved with CUED include General Motors Chairman Robert Stempel, former U.S. Attorney General Richard Thornburg, then Vice President Bush, my fellow colleague from the State of Massachusetts Barney Frank and many others.

As the preeminent national organization serving local development professionals, CUED provides its information and assistance through professionals, onsite technical assistance, conferences, seminars, and an information clearinghouse.

Boasting some 200 members, the organization has been called on throughout the years by the Congress and the administration to provide input on Federal economic development initiatives and research.

I recently worked with the staff of CUED in developing a legislative proposal establishing an Economic Development Block Grant Program [EDBG] that would put the urban development back into HUD. Unlike the defunct Urban Development Action Grant Program [UDAG], EDBG would require matching funds from the States and cities that vary by the level of financial need. Acceptable projects include new roads and bridges, natural resource development such as harbors, industrial parks, sewage treatment plants or cleaning up hazardous wastesites.

Another proposal would establish 282 enterprise zones.

Some of CUED's other recent actions highlight its nature and activitiy in aggressively supporting economic development efforts:

When the U.S. Department of Housing and Urban Development increased regulations on the Community Development Block Grant Program [CDBG], making it more difficult for economic development activities to be considered CDBG eligible, CUED alerted its membership and issued a major report on the problems of using CDBG for economic development. The report not only explained how HUD can adapt the current regulations to make CDBG a more useful economic development tool but also suggested legislative improvements to the CDBG Program.

In an open letter to the President and Congress, Iona Morfessis, president of the Greater Phoenix Economic Council and CUED president, shared her concerns about how the disadvantaged populations of cities can share in whatever benefits can accrue from economic growth and development. She also noted that it is unfortunate that it takes a riot to focus national attention on the plight of an urban neighborhood like south central Los Angeles. In her letter she called for:

First, a major effort that goes beyond the present Job Training Partnership Act [JTPA] and provides training for jobs that lead to a career path and growth for individuals;

Second, better programs to support business development, especially in poor and minority areas;

Third, the Federal Government to provide tax incentives in enterprise zone areas;

Fourth, the effective use of HUD's CDBG Program for economic development; and

Fifth, a reordering of priorities on a governmentwide scale to support economic development.

During the Economic Development Administration [EDA] reauthorization hearings, CUED board member Joseph James, director of Economic Development for Richmond, VA, called for a multiagency coordination of economic development at the Federal level. James, testifying for CUED before the House Subcommittee on Economic Development, called for a reordering of Federal priorities to support economic development and enhanced competitiveness at all levels.

Other CUED members who testified included Gary Conley, president of the Economic Development Corp. of Los Angeles County and a past president of CUED, who discussed the recent problems in Los Angeles and Honora Freeman, president of Baltimore Development Corp., who share her concerns as a witness for the U.S. Conference of Mayors.

At the request of Senator DON RIEGLE, CUED established a task force that developed 20 recommendations for economic development policy and program direction dealing with the revitalization of distressed communities. The recommendations address direct Federal Government subsidy programs, nonprofit and private sector partnerships, planning and technical assistance, and coordination among federal policies and programs. CUED has also been very supportive of Senator RIEGLE as the Senate looks at new urban initiatives.

Although CUED is not a lobbying organization, but rather an education practitioners organization, it has and continues to play an important role in developing legislative proposals, responding to congressional committees, testifying before Congress and assisting in the refinement of existing programs and evolving legislation. These recent activities give you some idea of CUED's role in helping to share Federal economic development initiatives.

CUED has been a longstanding leader in the preparation and dissemination of information to the practitioner community. This has been recognized by the Federal Government as CUED has undertaken contract efforts for the Office of Community Planning and Development [CPD] at the HUD, the EDA at the U.S. Department of Commerce and the Office of Economic Adjustment at the U.S. Department of Defense, and the Urban Mass Transit Administration at the U.S. Department of Transportation [DOT].

A brief sampling of some of their current and future activities included:

Los Angeles Mayor Tom Bradley and Peter Ueberroth both received letters from CUED's president offering the organization's assistance in helping to rebuild south central Los Angeles. Subsequently, CUED brought together the economic development professionals of Los Angeles County through the Los Angeles County Economic Development Corp., to assess the needs of the respective hard hit communities and what assistance they might require.

CUED will soon again meet with these development professionals to further assess their needs and develop an action plan for local municipalities in the Los Angeles area. Victor Grags, a CUED past president, and Gary Conley are playing a role in finding solutions to the post-riot problems in Los Angeles County and they see CUED as part of that strategy.

In the rapidly changing economy, CUED recognizes that local practitioners need to constantly review whether the current approaches to economic development will have significant long term impacts. With this in mind, developing policy recommendations for a new local approach to the changing economy is the focus of a select panel of economic development practitioners at a CUED policy workshop in Chicago.

Cosponsored by the EDA, "Forces in the New Economy: Implications for Local Economic Development," will feature nationally respected policy experts who will help develop a series of local action recommendations to help communities address the changing economic order.

This all-day workshop will focus on several forces of change that are bringing about what amounts to a new economic order. These forces are:

First, companies competing in the global marketplace;

Second, companies adapting emerging technologies to produce goods and services;

Third, companies requiring competitive workforce trained with new skills;

Fourth, traditionally disadvantaged groups becoming a larger proportion of potential workers and entrepreneurs; and

Fifth, changing public sector priorities in the post-cold-war era.

Now urban neighborhoods can be revitalized economically is the theme of a national technical conference on "Neighborhood Economic Revitalization." Experts from round the country will explore how public sector efforts can be used more comprehensively or selectively to impact critical factors of the neighborhood revitalization process.

"Securitization and Economic Development Loan Funds" is the focus of an educational forum exploring the issues and mechanics related to selling economic development loans into the secondary market.

The activities described here provide you with some idea of the depth of CUED's involvement in revitalizing our local economies. Throughout the years, CUED has established a program to analyze and disseminate information, expand the capacity of both private and public officials to devise and manage successful economic development programs and increase the responsiveness of public and private policymakers to economic development needs.

I ask the House of Representatives to join me in congratulating CUED for its first 25 years.

HARMONY ON SAN BRUNO MOUNTAIN

HON. TOM LANTOS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 12, 1992

Mr. LANTOS. Mr. Speaker, almost 20 years ago, through the extraordinary leadership of Edward Bacciocco and the unwavering efforts of many others, a new era of environmental awareness was born on San Bruno Mountain, CA.

Ed Bacciocco, who, sadly, died in 1990 after a long illness, was the architect of San Bruno Mountain's future. For almost a decade, acrimony hung over the mountain like a thick fog. Those who had opposing views about the future of the mountain—land developers and preservationists—were at bitter odds. It was Mr. Bacciocco who brought them together.

An honest broker, he arbitrated their feud by showing each side that he was neither an enemy nor a tool and that there were honorable people with legitimate concerns on both sides of the issue. The result was the cooperative crafting of the San Bruno Mountain habitat conservation plan.

The conservation plan, developed and implemented in 1983, stands as a model for others to follow. Forged by citizens from the four surrounding cities, State, and Federal environmental authorities, and area land developers, the San Bruno Mountain plan has brought people together and enabled them to live in harmony with their natural surroundings.

Today, San Bruno Mountain is a landmark of local and regional significance, a unique open space island surrounded by adjacent urbanization. Almost 3,000 acres of wild open space and the species that inhabit it are protected and provided for.

Mr. Speaker, on September 19, 1992, citizens of California and the Nation will gather on San Bruno Mountain to pay tribute to Edward Bacciocco. The mountain is Ed's monument, and a fitting and inspiring monument it is. His superb leadership built the bridge between traditional adversaries and brought understanding about the need for preserving our most important national treasure: nature itself.

TRADE BARRIERS WOULD HAMPER U.S. COMPETITIVENESS IN INFORMATION TECHNOLOGY

HON. WILLIAM L. DICKINSON

OF ALABAMA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 12, 1992

Mr. DICKINSON. Mr. Speaker, I rise today to bring to the attention of my colleagues a speech delivered recently at the Cranfield School of Management, a prominent graduate institution in the United Kingdom. This talk, by Mr. Randall L. Tobias, vice chairman of AT&T, clearly addresses the potential problems that trade barriers may cause American companies and rebuts arguments being made by our competitors in the European network equipment market.

SPEECH BY MR. RANDALL L. TOBIAS

Good evening. It's a great pleasure and honor to present this year's Henry Ford the Second Scholar Award lecture. Your previous speakers have been business leaders of great distinction. I'm flattered to be in their company.

The Ford Motor Company has been a corporate citizen in good standing for more than 80 years in the United Kingdom. I hope over time we at AT&T will contribute as much to the U.K. as Ford has. It is certainly our intention to participate fully in the countries where we operate * * * to provide jobs as well as quality products and services * * * to be a good corporate citizen in all its dimensions.

AT&T already has set deep roots in Europe and in the United Kingdom. Of our 25,000 European employees, we now have almost 7,200 employees in the U.K. Our NCR subsidiary operates factories producing automatic teller machines in Dundee and Dunfermline and AT&T Microelectronics manufactures electronic power supplies in Malmesbury in Wiltshire.

And, of course, we are quite proud of Istel, which became part of AT&T in 1989. Founded before widespread telecommunications liberalization in the U.K., AT&T Istel has created

a substantial business in value-added services that blend communications and computing. In the U.K., it is the leading provider of information technology to the health service and the travel industry. It serves the manufacturing, financial and distribution markets. And it operates one of the largest data networks in Europe as well.

As AT&T's corporate clients have "gone global" so have we. In just a decade, we've expanded from fewer than 100 employees outside the U.S. to more than 50,000 employees outside the U.S. in more than 130 countries. We operate factories in some 34 locations, including—here in Europe—factories in Ireland, the Netherlands, Germany, Spain, Italy and Denmark, as well as those I mentioned in the U.K. We've formed a score of alliances around the world that include joint ventures in Spain and Italy, Russia and Ukraine. Our investment in capital and human resources in the United Kingdom and Europe reflects our long-term commitment to and belief in these markets.

Today AT&T can offer our international customers a wide range of products and services, from telephones and private office switches through computers, network switches, fiber optic transmission systems, and of course, communications services.

While many regard us as new to world markets and the United Kingdom, in fact, our global presence is a reappearance. I'm reminded of that whenever I stay at Brown's Hotel in London—as I did last night. For it was in that hotel in 1876 that AT&T's founder—Alexander Graham Bell—demonstrated his new invention and made the first telephone call in the U.K. In 1883 AT&T established a London subsidiary to sell and later manufacture telephone equipment. It expanded to about 3,500 employees in the U.K. and became what was then our largest international organization.

But in 1925, with rumors of U.S. antitrust action in the wind, we sold off all of our international manufacturing facilities to ITT to concentrate on developing the telecommunications network in the United States. We continued to provide international long distance service from the United States to the world through partnership relationships with national telecommunications carriers. But we didn't reenter national markets outside the U.S. until the 1970s—and then only tentatively. Recently, however, we have made a complete commitment to globalize our business—in effect, to redefine AT&T. We made that commitment because that's where customers, markets, technology, and opportunity are leading us.

Although AT&T had been gone from the international market for some time, I believe we returned with something important to offer. AT&T is dedicated to being the world's best company at bringing people together—giving them easy access to each other and the information services they want and need—anytime and anywhere. We can accomplish that through our expertise in communications and computing technology * * * through networks that bring people together and computers together. And we intend to do so with products and services that are easy to use and helpful * * * products and services that solve real world problems.

I'd like to focus my remarks today on what my industry—information technology—can do to support world trade and create a truly integrated global economy. And I want to address some forces at play that—if not checked, may hinder the flow of information technology.

Business customers know the power and value of information technology in creating a global enterprise. They're on-line and plugged in around the world.

They've transformed the fiber optic cables stretching under oceans and across continents into the new trade routes of the world. Their precious cargo is information which streaks over these cables in breathtaking volume. The machines that process, switch and transport the cargo have become critical assets like the trading ships of the past.

Using information technology, companies have been able to rationalize operations on a global scale with enhanced responsiveness to customer needs. In fact, by harnessing the advantages of multiple locations, they enjoy new economies of scale, sourcing and a richer competitive experience.

Maintaining these global linkages is very communications intensive. But by phone, fax, modem, electronic mail and video-conferencing, companies can easily connect the far-flung outposts of their global enterprise. Factories can instantly communicate with suppliers * * * sales with service * * * marketing with design.

Consider how even a single consumer transaction can trigger a series of electronic messages that ricochet around the world. Let's take the hypothetical purchase of a sweater in a clothing store in New York. As the store clerk scans the bar code and records the transaction in a point-of-sale terminal, the charge is posted to the customer's account and added to the daily sales total of the store's owner, a holding company in London. The purchase deletes the store's inventory of such sweaters to the point of reordering stock, and the call for a new shipment is made to Hong Kong where the sweater is manufactured. In turn, the manufacturer may request its supplier in Singapore to ship more material. All of this triggered by swiping a bar code in a small store in New York City.

It is only through a similar seamless web of communications that a company like Airbus or Ford can coordinate design, manufacturing, marketing and distribution in locations across Europe and around the world.

Increasingly, businesses are viewing such communications networks as strategic tools to gain real competitive advantage. We live in a fast-paced world of just-in-time inventory, manufacturing, distribution and management. Futurist Alvin Toffler calls it "survival of the fastest." Advanced, instant communications gives many businesses the edge they need to stay competitive.

But most important, global telecommunications networks provide passports to new and vital world markets: The non-communist states of the former Soviet Union. The reawakening nations of Latin America. The industrialized Pacific Rim. And, of course, the potent combination of the European Community, the European Free Trade Association and the emerging countries in Central Europe.

Global networks along with international transportation systems have truly spurred on the development of international trade. They are the critical infrastructures of the global economy.

Information technology also has proved to be a powerful force in transforming social and political systems. While a number of political and economic forces were at play in the collapse of communism, electronic communications played a pivotal role.

During the abortive coup in the former Soviet Union, Boris Yeltsin was able to call directly to the White House and tell President Bush of his plans and seek his support. Moreover, Yeltsin was able to fax a speech to the U.S. urging resistance so that it could be broadcast back to the Soviet Union. Meanwhile, Mikhail Gorbachev, imprisoned in the Crimea, learned of Yeltsin's plans via the BBC radio.

The impact and immediacy of news—flashed through communications satellites and telephone lines around the world actually helps shape events and, I believe, helps bring the world closer together. People throughout the world have shared the tumultuous events of our time in a series of indelible television images.

Hundreds of millions saw the deadly fireworks over Baghdad during the Gulf War and the incredible courage of one man facing a tank in Tiananmen Square. And we all watched in wonder as people with pick axes, knives and even spoons tore into the Berlin Wall, and chipped the symbol of communism into a million souvenirs.

We watched and felt that this was a defining moment in history. We felt a resonance with Goethe's words, from another historic time, quote, "That from this place, and this time forth, commences a new era in world history, and you can all say that you were present at its birth."

Future historians, on the other hand, may well decide the defining quote of this time came from an anonymous East Berliner, who came to West Berlin and scrawled on the wall: "I came, I saw, I shopped."

People learned from electronic media that the Free World enjoyed a standard of living they could only dream about. But it was the force of their dreams that caused communism's collapse. A revolution begun on behalf of the masses and the worker, ended on behalf of the individual and the consumer.

This then is the ethos of the political and economic world today: individual freedom and material choice translated into liberal democracy and free markets. Any new world order shaped out of the chaos of recent events will be built on that bedrock.

There are important lessons in that for those of us in business. We must take into account that individual needs and freedom of choice are the most powerful forces of the day * * * that they are having an impact on the marketplace.

Countries that put up protectionist fences may find their citizens agitating to rip them down. People have had enough of walls that restrict freedom and choice—political or economic.

I don't know how this round of GATT talks will fare, but it's in all of our best interests to support real progress toward free trade, or at least fair trade. While free market policies may cause some short-term pain—a shakeout in some industries—they ultimately promote higher living standards and global prosperity. And they provide the material choice that people everywhere want.

We, in the information industry, already are witnessing the transformation of passive customers into aroused revolutionaries. Under the firm grip of telecommunications monopolies and dominate computer companies, technology used to drive progress in the information industry. That's no longer so.

Customers are now in the driver's seat. They've lobbied for open systems in computers, allowing them to pick and choose among suppliers. They've won access to the public telecommunications network in order to exercise greater control over their corporate networks. They've even built private telecommunications networks that by-pass the public network when those public networks have failed to meet their needs. They've in-

sisted on more and speedier innovation in communications and computers. They've applied political and marketplace pressure to push down the costs of communications and computers to new lows.

In sum, they're decentralizing information control, accelerating innovation in the marketplace and bringing prices crashing down. The telecommunications industry is going through its own era of glasnost, perestroika and radical reform.

It has been suggested that my industry has a new cosmology * * * with the customer at the center of the universe * * * and suppliers obligingly orbit around their needs. With the unprecedented pace of globalization, each supplier's sun may rise and set on new shores every day.

Thus, companies like BT, Cable and Wireless and AT&T are shifting orbits * * * following our customers wherever they go * * * providing whatever they require to meet their business needs.

The most pressing need for our multinational business customers is for networks on a global scale. And so, AT&T and other carriers are intent on providing global end-to-end network service for their customers—from design and installation, through maintenance, management and billing, and including negotiating with other carriers to provide the backup facilities to meet customer needs.

On the European continent, private telecommunications companies are restricted to providing only value-added services—primarily data and network management services. Long distance voice service is not yet open to competition in Europe whereas in the United States all long distance services are fair game.

So AT&T has faced artificially imposed limits in the areas of opportunity we could consider in Europe. Yet at the same time, British Telecom has been able to invest more than $2 billion in six U.S. telecommunications ventures, making one of AT&T's important international partners one of our major competitors inside the U.S. And Cable and Wireless has become the sixth largest long distance services provider in the U.S. Indeed, there are 12 facilities-based international carriers, a number of which have foreign ownership or are foreign controlled. And we welcome that competition.

This trend suggests that as other markets become more open, many of the world's telecommunications carriers will increasingly be addressing the same opportunities in the marketplace. This is not a clockwork universe we find ourselves in. It will test the maturity of the industry to sort it out.

We'll simply have to get comfortable with the idea of cooperating closely in some areas while competing aggressively in others. It's not a new concept in most industries, but it is novel in telecommunications. Ultimately, we will work it out because customers will demand that we do.

Indeed, they are insisting that we work it out right now in Europe. A study by the Yankee group, an international consulting firm, found that large telecommunications users in Europe have two overwhelming wishes: That most regulation of communications networks be abolished and that they have a choice of suppliers for most services.

Echoing these sentiments, the Wall Street Journal recently reported that multinational corporations are increasingly upset with their inability to get trouble-free communications across Europe's borders at reasonable prices.

In essence, customers are asking for more than the appearance of competition in services. They want real competition—in long distance voice services as well as value-added services.

The European Commission has heard these customers. The commission recently began discussions on how to open up competition in long distance voice services between member states of the European community. If enforced properly, with equal access to local networks for all long distance service providers, liberalization of basic services will facilitate progress toward pan-European communications. Competition will force down high service prices—prices that now provide margins that are used to subsidize other activities. And customer needs will, at last, be met.

The demand for pan-European networks represents an opportunity for long distance carriers to work together in the customers' interest. No one carrier would be able to meet the needs of these customers. It will take cooperation among several carriers. And the partners will all benefit by meeting customer needs. Such a cooperative approach represents AT&T's strategic intent. But when we cannot in this way meet customer needs, we will explore and embrace other alternatives.

Indeed, AT&T recently announced the opening of global network management centers in the U.S. and U.K. to provide management of private data networks across Europe and around the globe for multinational customers.

And we expect to offer the vast majority of our international services—such as this—with the partnership and support of telecommunications authorities.

The message has become abundantly clear that business customers in Europe want freedom of choice. They want liberalized rules—they want to abandon the old ways of doing things that no longer make sense. They want the walls that inhibit commercial choice to come down just as they wanted the destruction of artificial political barriers.

They are increasingly aware that they are being denied competitive choices available elsewhere. They know in the most progressive and liberal markets for telecommunications products and services, consumers have quickly seen the benefits of technological advances by receiving both improved services and lower prices.

In such a climate, when the European Commission has begun to recognize the value of expanding competition in services, it's hard to understand why the EC would promote a protectionist policy with regard to telecommunications equipment. Under the EC's government procurement rules, PTTs could be required to exclude equipment that is less than 50 percent produced in Europe.

The EC directive puts handcuffs on network service providers who invariably seek out the best technology at the lowest prices to enable them to beat their competitors in the marketplace. Restricting access to non-European suppliers will threaten the competitiveness of the telecommunications infrastructure in Europe, and of the companies doing business there. The EC directive will impede the flow of new information technology and the development of advanced and cost-effective services. None of this is in the interests of customers.

Unfortunately, the history of telecommunications around the world has been marked by national telephone companies supplied by national or regional manufacturers. Opening up such long-standing and embedded industry relationships is difficult.

Some charge, for example, that the U.S. telecommunications equipment market is not open. These critics often cite the Buy America Act which requires 50 percent U.S. content in certain telecommunications equipment purchases. But this argument only goes to prove that trade talk—as well as trade itself—is subject to distortion.

It's distorted because the Buy America Act, which I'm not here to defend, covers less than 5 percent of the U.S. market for telecommunications network equipment, whereas the EC directive applies to almost 90 percent of EC telecommunications equipment.

The Buy America Act applies only to purchases by agencies of the U.S. government. It does not apply to private companies such as the U.S. telecommunications carriers. Indeed, as part of the breakup of the Bell System, the publicly owned local Bell companies were required to purchase equipment on a nondiscriminatory basis—and they have done so with enthusiasm.

In the U.S. market, which is indeed open, foreign companies how hold a combined share of 52 percent of the market for exchange switching equipment. In 1990, AT&T—which a decade before claimed 90 percent of the market—had only a 41 percent share. In contrast, Alcatel's share of the French market was 92 percent. Siemens' share of the German market was 85 percent. Northern Telecom's share of the Canadian market was about 80 percent. A combination of Japanese companies, meanwhile, holds 90 percent of the Japanese market.

The U.S. experience suggests that the losers in the EC directive will actually be business customers and consumers in Europe. As a result of competition equipment prices in the U.S. have fallen dramatically. Since 1983, there has been a 50 percent drop in the price per line for large exchange switches. In contrast, prices in the EC on average are from 2½ to 4 times higher than U.S. prices for similar switching equipment. If there were real competition in the EC, cost reductions could be passed on to businesses and consumers.

Nations cannot afford to build trade walls to protect national champions. Only the rigors of competition will make these companies more efficient and productive. Protected companies will ultimately not meet the economic or technical demands of our time.

In turn, if the countries and regions they serve cannot provide advanced, ubiquitous and instantaneous communication, they will be losers in the world economy. The efficient production, distribution and trade of durable goods, products, even agriculture, depend on the quality of the telecommunications infrastructure.

European unity should not come at the price of protectionism. The European business community cannot and should not pay the price. Products should be judged solely on their merits * * * based on quality and price * * * not by the return address on the packing crates.

At risk is not only the technology available today, but the advances coming tomorrow.

Those advances promise to change the world in dramatic fashion. For we're leaving an era of technological scarcity and entering an era of abundance. The pace of progress in underlying information technologies like microelectronics and fiber optics is astonishing. The trend is smaller, faster, cheaper.

Computers in the 1950s were room-sized machines. Today far more computing power than they produced can fit onto a chip no bigger than a fingernail and at a fraction of the cost. The first transatlantic tele-

communications cable in 1956 was able to carry only 89 simultaneous conversations. The newest transatlantic cable can carry 80,000 conversations at once.

To put that in perspective, the rate of progress in information technology has been so great that if comparable advances had been made in the automotive industry, you could buy a Ford that would travel at the speed of sound, go 9000 kilometers on a thimble of gas and cost only slightly more than a pound. It would only be 7.5 centimeters long * * * but easy to parallel park.

And the progress continues. My colleagues at AT&T Bell Labs tell me by the year 2000 they expect 10 billion transistors—10 billion!—onto a computer chip the size of a postage stamp. Such a chip would have many times the power of today's most advanced computers, and would fit into a device not much larger than a pocket calculator.

Meanwhile, fiber optic systems in the year 2000, driven by super-fast lasers, will likely transmit a trillion bits of information per second. That's equal to 200 million simultaneous phone calls, or more than enough capacity to transmit the contents of a great library anywhere on earth in just minutes.

In the near future, we expect videophone calls will become as routine as voice calls are today. With wireless technology cutting the cord, people will carry pocket-size multimedia handsets able to receive voice, data and video transmissions. We may all have personal telephone numbers that will allow us to be reached just about anywhere in the world, even in transit—if we want to. Recent advances in technology give us the option to receive that message in the form of our choosing at the time of our choosing. And with new fiber optic and broadband technology, businesses will move voice, data and video at will at low cost through public networks throughout the world.

The progress in telecommunications and computing technology will create a world of opportunity for everyone of us. It will help make possible the much-heralded global village. It will help design an integrated mosaic of world markets. It will help build a truly global economy—with its promise of prosperity worldwide.

The challenge for all of us will be to think beyond our national or regional boundaries. To promote rather than thwart freedom of choice. To simulate the growth of global markets.

Protectionism is antithetical to a global economy. It must not endure. It is time to tear down all walls.

Thank you very much.

LIFE IN THE SIKH HOMELAND IS INTOLERABLE

HON. DAN BURTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 12, 1992

Mr. BURTON of Indiana. Mr. Speaker, I first want to thank all my colleagues who voted in favor of my amendment to the House Foreign Aid appropriations bill. This amendment eliminated $24 million in United States aid to India in protest of the Indian Government's violation of human rights against the Sikhs, Kashmiris, and other minorities living in India. The situation in the Sikh homeland alone suggests this amendment was long overdue.

Under the oppression of the Indian Government, day-to-day life in the Sikh homeland is simply intolerable. I am submitting for the RECORD an English translation of a Punjabi letter written by a Sikh woman, Manjit Kaur Sekhon, to her husband, Paramjit Singh Sekhon who recently came to America after being tortured by Indian police. The letter, I think, accurately portrays the suffering and hardships Sikhs must endure in the so-called world's largest democracy—a country in which Amnesty International has said torture is widespread.

Since 1984 over 100,000 Sikhs have been killed by the Indian Government police, paramilitary forces, and death squads. Over 15,000 Sikh prisoners of conscience currently languish in Indian prisons without charge or any chance of getting a trial. It was in response to this oppression, that many Sikhs declared themselves independent from Indian on October 7, 1987 and formally announced the beginning of a new nation called Khalistan.

Freedom and justice are bedrock American principle. The United States cannot support freedom in one place and ignore it in another. Sikhs are dying under the oppression of the Indian Government, and I ask my colleagues in the Congress to recognize this suffering.

For those Members of Congress who are unfamiliar with the current crisis in Punjab, I submit a letter from Manjit Kaur Sekhon to her husband, Paramjit Singh Sekhon, now residing in America after being tortured by Indian police. It is both enlightening and tragic.

ENGLISH TRANSLATION OF A LETTER WRITTEN BY MANJIT KAUR TO HER HUSBAND PARAMJIT SINGH SEKHON ON MAY 29, 1992

RESPECTED HUSBAND: I convey my respectful greetings to you and the other members of the family.

With the grace of Guru, and according to our strength we are passing through our present struggle. In spite of the ceaseless tyranny confronting us, we are still in high spirits and we continue to pray to almighty God that you may be given strength to continue to serve the Sikh nation.

Due to your involvement in the Sikh struggle for independence, the policy and CRP [Central Reserve Police] have unleashed untold cruelty on us. The police have repeatedly announced that if anyone engages in activity on behalf of the Khalistan freedom movement they would murder every member of his family that no future Khalistani child will born of that clan.

In your absence, police from Dakha police station called me and my father informing us that a senior police official was to take statements from us [concerning your involvement in the Khalistan freedom movement]. When we went to the police station, however, we found that there was no senior police officer present there to take our statements, only regular police officers. Instead of taking our statements, these officers tortured us, committing monstrous act of violence against us and threatening to kill us. They forced us to undress one another, gave us bamboo sticks and ordered us to beat the other until both our bodies were blue with bruises. They then took our youngest daughter, [Bagail Kaur, 7 months old] and tortured her by placing her on the hot sand and let her sit there helplessly burning. They beat me and my father with belts. Then they released us telling us that we would continue to receive the same kind of treatment until Paramjit Singh Sekhon is killed by the police.

A few days after releasing us, the police and CRP arrested my two younger brothers, Daljit Singh and Jagdev Singh and took them to CIA (Central Investigation Agency) Staff Headquarters in Ludhiana. There they were tortured mercilessly. They were hanged upside down, their legs were force apart tearing the groin muscles; rollers were put on their legs [with the weight of two officers standing at either end crushing the muscles in the thighs]. Initially, the police would not yield any information of their whereabouts. We thought they were killed in a fake encounter. When we discovered them, they couldn't walk due to the torture they received. People from our village went there to get them released from police custody.

One day I went to Jagraon [a nearby town] to get groceries. Police picked me up and brought me to the Ludhiana CIA Staff Headquarters [about 20 miles away]. There, they tortured me brutally for four days. They beat me with leather belts. They beat the sole of my feet with bamboo sticks. After tying my hands, they beat me brutally with sticks. They pulled my legs apart, causing damage to my muscles. They also demanded bribe money from me.

They put our daughter [Bagail Kaur, 7 month old] on a colony of ants, coated her arms and legs with sugar and let the ants bit away at her. The watched as she cried out helplessly as if close to death. These tyrants possess not even a grain of mercy.

When I saw the horrifying condition of my child crying with ants covering her body, my anguished soul could not keep silent. I spoke out against the savagery of the police. In response, they tortured me again.

Eventually, village elders got me released from CIA Staff Headquarters on the promise that they would never reveal knowledge of my detention nor my beaten condition. At the time of my release, they warned me if I told anyone of my torture under police detention, the police would blow up my entire family. Due to the torture, I have been bedridden for over a month and still do not feel well.

This is my brief account of the events since your departure. We are suffering untold brutality for the freedom of Khalistan. The rest is up to God. Do not worry after reading this letter. Do not let yourself down; keep in high hopes. We are to strengthen our will and continue our struggle for the freedom of Khalistan. I am thankful to almighty God that I am alive. I pray to the true Lord, that I will find the courage to martyr myself rather then endure these painful trials. In the end, Guru Fateh from me and love from your daughters.

Wahe Guru Ji Ka Khalsa
Wahe Guru Ji Ki Fateh
Your wife,

DALJIT KAUR.

TILTONSVILLE VOLUNTEER FIRE DEPARTMENT MARKS 75 YEARS

HON. DOUGLAS APPLEGATE

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 12, 1992

Mr. APPLEGATE. Mr. Speaker, communities all across America have a common institution which most people seldom ever utilize, but when troubles do develop, when flames threaten people and property, and when a quick rescue can make the difference between life and death, the nearby firehouse becomes one of the most important buildings in town

and the volunteers who constitute the local fire department becomes our most important public servants.

The citizens of Tiltonsville, OH, are celebrating the 75th anniversary of their volunteer fire department, volunteers made up of many generations, each and every one of which has been dedicated to the protection of property and the safeguarding of their fellow citizens. Tiltonsville, a small town alongside the Ohio River, has a long history of people who have given much more to their community than they have ever taken away for themselves, and the members of the Tiltonsville Volunteer Fire Department have always demonstrated the very best in true dedication and selfless hard work for family, friend, and neighbor.

I wish to join with the citizens of Tiltonsville in honoring the brave and valiant men and women who have volunteered their time and services and, most of all, who have placed their lives on the line in order to preserve their town and protect their fellow residents.

Mr. Speaker, the greatness of our Nation has been purchased through the deeds and accomplishments of those who have answered to a higher calling of public service, and those who have served and who continue to serve with the Tiltonsville Volunteer Fire Department represent some of America's greatest local heroes. I wish for all of my congressional colleagues to join with me and the citizens of Tiltonsville in honoring those who have done so much, sometimes through their acts, but mostly by reassuring all of us that they stand always vigilant and forever ready to safeguard our homes and our lives.

MONROE COUNTY BAR ASSOCIATION CELEBRATES CENTENNIAL

HON. FRANK HORTON

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 12, 1992

Mr. HORTON. Mr. Speaker, it is our pleasure to take this opportunity to commemorate the 100th anniversary of the founding of the Monroe County, New York Bar Association. This group of our constituents has ably served our community and legal system and we are proud to salute its efforts.

In 1892, 25 attorneys gathered together to form this association, then known as the Rochester Bar Association. Today, over 2,000 members work for equal access to legal representation, for an impartial judiciary, for fair dispute resolution, and for the provision of law-related educational programs. In addition, the foundation of the Monroe County Bar has generously contributed more than $1 million to local community organizations.

The goals of the bar association, as reflected in its mission statement, are to "improve the quality and accessibility of justice; promote respect for and understanding of the law; enhance professional growth, fulfillment, excellence, collegiality, and diversity among its members; and serve as the voice of the profession." The Monroe County Bar association has ably risen and met each of these challenges.

It is our pleasure to represent such capable and dedicated attorneys and to take this occasion to applaud their outstanding work. As a member of the bar association since 1947, including a stint as secretary from 1953 to 1957, Mr. Horton can personally attest to its high level of professionalism. We are confident that the next century will bring continued success and expansion to the Monroe County Bar Association. This organization is truly a shining star in the Rochester community.

INDIANA AND FEDERAL SPENDING

HON. LEE H. HAMILTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 12, 1992

Mr. HAMILTON. Mr. Speaker, I would like to insert my Washington Report for Wednesday, August 12, 1992, into the CONGRESSIONAL RECORD:

INDIANA AND FEDERAL SPENDING

Indiana does not receive its fair share of federal spending. It ranks 48th among the states in federal spending per person, just ahead of Michigan and Wisconsin. The allocation of federal spending becomes even more important in times of fiscal restraint and economic downturn.

Overview: Most federal expenditures purchase public goods (national defense, for example) or redistribute funds from richer to poorer persons in our society. The federal government spent $1.1 trillion (excluding interest on the national debt) in 1991. Of that amount, $542 billion was for individual benefits, such as Social Security, Medicare, and food stamps; $208 billion for procurement contracts for goods and services, such as airports, buildings, and military equipment; $156 billion for federal, civilian and military employees; $153 billion for grants to state and local governments, for programs such as education, environmental protection, and economic development; and $37 billion for programs to nongovernmental recipients, such as scientific research and agricultural subsidies.

In 1991, Indiana received $18.8 billion in federal funds, or $3,350 per person. This suggests that Indiana gets a lot of federal money. Yet the federal expenditures in Indiana are significantly less than the national average of $4,150 per person. The state ranks 36th in direct payments to individuals, 32nd in procurement, 46th in federal salaries and wages, 42nd in grants to state and local governments, and 19th for programs to nongovernmental recipients. Indiana receives less than 88 cents in federal spending for every $1 in taxes it sends to the U.S. Treasury. Although this represents an improvement from 1981 when Indiana registered an average return of 74 cents, Indiana's overall state rank has dropped from 46th to 48th over the last 10 years.

Reasons for Problems: Several factors cause Hoosiers to pay more in federal taxes than they receive in federal spending. First, federal grants to state and local governments have fallen over the last decade. State and local governments have received less help since 1980, while seeing their revenue dry up in the current recession. Programs important to the states and localities, like revenue sharing, public housing assistance, and community block grants, were eliminated or curtailed. Second, Indiana's reluctance in previous years to commit matching funds for federal grants has cost it money, particularly in federal assistance for aid to families with dependent children and unemployment benefits. Third, the defense buildup of the 1980's caused a substantial net drain of resources from many states, including Indiana. Indiana's defense industry's concentration in ammunition and combat and non-combat vehicles did not coincide with greater defense procurement needs in high-cost electronics and communication equipment. Fourth, Indiana has one of the smallest state percentages of residents working for the federal government—1%. Fifth, Indiana experienced a relatively low population growth in the 1980's, and many federal grant programs are distributed by formulas which include population as a factor.

Steps to Promote Fairness: There are certain categories of federal spending for which little can or should be done to increase Indiana's share. For example, Indiana has a smaller proportion of most categories of the very poor, which partly explains its lower federal share of payments to individuals. Adding major federal facilities with large numbers of federal workers in our state would be helpful in terms of increasing the federal civilian or military workforce in Indiana. However, current fiscal restraints mean that many federal facilities are being eliminated or reduced.

Nevertheless, several actions could be taken to boost Indiana's share. First, Indiana would benefit if the federal government provided more funds for programs conducted by state and local governments. We should redirect federal spending priorities. I support the moves in Congress to use the savings from Pentagon cutbacks to pay for deficit reduction and spend more for investments to enhance economic growth. If a sizeable portion of any savings were invested in education and training, environmental protection, housing, neighborhood revitalization, research and development for basic industries, or public infrastructure, Indiana could receive a more equitable share of federal spending in the 1990's.

Second, the formulas utilized in many federal programs to provide grants at the state and local levels should be changed. Many of these programs have formulas which benefit states that are primarily rural or urban. A state like Indiana, which is neither predominantly rural nor urban, fares poorly under these programs.

Third, Indiana should take advantage of federal grants. The state is working to do this. I support its efforts to participate more fully in federal programs—especially investment-oriented opportunities—which are equitable and important to Hoosiers.

Fourth, Indiana's private enterprise needs to be more aggressive in pursuing federal procurement and research contracts. State officials should be fully supportive of these efforts. Indiana's economic strength lies in its diversity, as well as being backed by highly regarded universities and a high-quality workforce, research programs and laboratories across the state. We need to take advantage of these assets and actively compete for a larger share of these federal dollars.

Conclusion: Our federal system is based upon meeting the needs of the nation as a whole, not guaranteeing that every state receives $1 in federal spending for every $1 paid in federal taxes. Nonetheless, something is wrong when one state or region's relationship with the federal government is so consistently out of balance that huge sums are drained from it while crucial state and local needs go unmet.

No public official can single-handedly turn these trends around to the benefit of his or

her state. Public officials have to join with private sector leaders to work together to decide on the appropriate federal role in directing public spending toward more productive long-term investments and to address the unintended state and regional consequences of national spending policies.

INTRODUCTION OF LEGISLATION ESTABLISHING A MORATORIUM ON CERTAIN EPA SAFE DRINKING WATER ACT REGULATIONS

HON. BILL RICHARDSON

OF NEW MEXICO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 12, 1992

Mr. RICHARDSON. Mr. Speaker, I am introducing legislation today to establish an 18-month moratorium for small- and medium-sized water systems on the implementation of certain EPA Safe Drinking Water Act regulations.

I have heard from hundreds of New Mexicans via correspondence and at my town meetings concerned that new safe drinking water testing requirements imposed by EPA will pose major financial and other hardships for small water systems in New Mexico. Additionally, hundreds of people traveled hundreds of miles to attend several water hearings I sponsored last month, demonstrating the magnitude of concern and apprehension which exists on this issue. The overriding fear expressed by both consumers and small water system managers alike was that consumer water bills would be astronomical, and hence unaffordable for most New Mexicans after the new EPA testing requirements were passed on.

New Mexico, with a population of about 1.5 million people, has more than 2,000 water systems. Large water systems such as those in Albuquerque, Las Cruces, and my hometown of Santa Fe are big enough that the costs of testing for lead, copper, and other elements can be easily spread out among tens of thousands of consumers. That means the additional cost to consumers is small.

That isn't true of small systems. Eighty-five percent of the water systems in New Mexico have fewer than 3,300 customers—and many have less than 100. Combine the few number of customers with the poverty of New Mexico—New Mexico ranks 45th in the Nation in per capita income—and you have a critical situation which demands a careful look at the impact EPA's new regulations will have on small systems.

As just one example, city officials in Questa, a small town in northern New Mexico near the Colorado border, estimate water bills for the city system's 1,000 customers could jump to $175 a month. And that is in a town with double-digit unemployment because the major employer, a mine, recently went out of business. Additionally, the State of New Mexico's Ground Water Bureau has estimated that it will cost $8 million annually just to meet all the new EPA testing requirements not to mention treatment requirements.

Mr. Speaker, I am a strong supporter of safe drinking water standards. However, in the current recessionary atmosphere, it is critically important that we have a firm understanding of the costs involved in implementing these new regulations. We simply cannot bankrupt small water system consumers who can ill-afford astronomically high water bills. Moreover, if we enact water standards which are not financially attainable, we run the risk of widespread noncompliance, and unsafe water.

My legislation would establish an 18-month moratorium on the application of the national primary drinking water regulations for lead and copper, and the phase II and phase V drinking water regulations for synthetic organic and inorganic chemicals until more is learned about the financial implications these new rules will have on small- and medium-sized systems.

My legislation also requires EPA to report back to Congress within 1 year on the annual costs associated with the new testing and treatment requirements, and to make recommendations on the funding levels needed to implement the new regulations. EPA must also make recommendations about potential funding mechanisms that could be used to assist small- and medium-sized systems in meeting the new requirements. It is critically important that we develop a financing mechanism which enables small- and medium-sized water systems to meet these new standards. I believe my legislation will buy Congress the time needed to understand the financial implications of these new regulations for small- and medium-sized systems, and to develop appropriate financing mechanisms.

In closing, I urge my colleagues to look into this matter in their own States and see if similar problems exist for your small water systems. If so, I urge you to cosponsor my legislation.

H.R. —

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. APPLICATION OF CERTAIN DRINKING WATER REGULATIONS TO SMALL AND MEDIUM-SIZED DRINKING WATER SYSTEMS.

(a) 18-MONTH MORATORIUM.—For a period of 18 months beginning on the date of enactment of this Act, each of the following regulations shall not apply to public water systems that serve 10,500 or fewer individuals:

(1) The national primary drinking water regulations for lead and copper referred to in the final rule promulgated on June 7, 1991, at 56 Fed. Reg. 26460, (as the deadline was modified in the final rule promulgated on June 29, 1992, at 57 Fed. Reg. 28785).

(2) Phase II drinking water regulations for 26 synthetic organic chemicals and 7 inorganic chemicals referred to in the final rule promulgated on January 30, 1991, at 56 Fed. Reg. 3525 (as the deadline was modified in the final rule promulgated on June 29, 1992, at 57 Fed. Reg. 28785).

(3) Phase V drinking water regulations for 18 synthetic organic chemicals and 5 inorganic chemicals, as referred to in the final rule promulgated on July 17, 1992, at 57 Fed. Reg. 31776.

(b) STUDY.—Within 1 year after the enactment of this Act, the Administrator of the Environmental Protection Agency shall submit a report to the Committee on Energy and Commerce of the United States House of Representatives and to the Committee on the Environment and Public Works of the United States Senate which includes an analysis of any potential barriers small and medium-sized public water systems may face in complying with the requirements referred to in subsection (a), including—

(1) the annuial costs associated with complying with the testing requirements,

(2) the annual costs associated with complying with the treatment requirements, and

(3) the ability to finance capital improvements necessary to comply with such regulations.

The report shall also incude administrative and legislaive recommendations regarding funding levels needed to implement the requirements referred to in subsection (a) including recommendations regarding possible funding mechanisms.

(c) IMMEDIATE IMPLEMENTATION.—If the Administrator of the Environmental Protection Agency, in consultation with the States, and after considering available resources for managing risks associated with drinking water, determines that the immediate application of one or more of the regulations referred to in subsection (a) to any drinking water system or any class or category of drinking water systems subject to the moratorium under subsection (a) is justifiable in order to protect human health in the case of such system or systems, the Administrator shall apply such regulation or regulations to such system or systems without regard to the moratorium under subsection (a).

A CONGRESSIONAL SALUTE TO NEWTON MAZZOLA

HON. GLENN M. ANDERSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 12, 1992

Mr. ANDERSON. Mr. Speaker, I rise today to pay tribute to an exceptional gentleman and member of our community, Mr. Newton Mazzola. On Sunday, August 16, 1992, the friends and family of Mr. Mazzola will gather to celebrate his 100th birthday.

Born August 19, 1892, in a little village near Palermo, Sicily, Newton worked as a ranch hand for most of his teenage years. At the age of 20, Newton left his home and sailed to the land of opportunity, America. Settling in upstate New York, it was there that Newton met and married Mary de Maria. Following their marriage, Newton and Mary moved to Perry, NY and started their family. Although, they suffered the tragedy of losing their first-born child during the flu epidemic of 1918, the Mazzolas raised four wonderful children, Frank, Josephine Shepherd, Maggie Truscott, and Petrina.

Newton became a U.S. citizen in 1927 and is proud to call himself an American. In 1948, Newton and his family moved to the city of Lomita in California. In the tradition of many immigrants from that period, the Mazzolas started their own business, a flower shop, which they jointly operated until Newton's retirement in 1969.

Even though Newton has outlived his wife of 64 years and one daughter, he keeps his spirits high thanks to a great love of life. "Papa" as his family and close friends call him, enjoys recanting his stories of the old days, tales of making wine in his cellar in New York and sharing this homemade wine with friends and playing his guitar. During the summer months,

you can bet that Newton is listening to the Los Angeles Dodger game on the radio, and if they lose, Newton does not hesitate to let everyone know where they went wrong.

In addition to his rich and full life with his family, Newton has been an active Moose member since 1920, the longest tenure of any member. He is also a devoted member of the St. Margaret Mary Catholic Church of Lomita.

Mr. Speaker, on this most special occasion, my wife, Lee joins me in congratulating Mr. Newton Mazzola for reaching this momentous milestone, his 100th birthday. We wish Newton, his children, seven grandchildren, ten great-grandchildren, and two great-great-grandchildren all the best in the years to come. Happy 100th birthday, Newton.

BAY AREA COUNCIL FOR SOVIET JEWS

HON. TOM LANTOS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 12, 1992

Mr. LANTOS. Mr. Speaker, 25 years ago the Bay Area Council for Soviet Jews formed to take up what was an unpopular cause and seemed to be an unwinnable fight—securing freedom and human rights for Soviet Jews. My wife, Annette, and I share great admiration for the Bay Area Council for Soviet Jews, a group of dedicated men and women with whom we have worked so closely over the last two decades.

This year as we celebrate the Bay Area Council's 25th anniversary by remembering the contributions this group has made to protect Soviet Jews, we also mark the 80th anniversary of Raoul Wallenberg, a hero who swept down into Nazi-ruled Budapest and saved 100,000 Jews from unspeakable horrors.

At the end of World War II, Wallenberg was taken into Soviet custody, despite being a Swedish diplomat. Evidence that he was still languishing in Soviet prisons existed as late as 1981, although Soviet officials claimed that he had died decades earlier.

My wife Annette and I are among those who who would have perished were it not for the compassion and courage of Raoul Wallenberg. When we began our efforts in the United States to fight on behalf of this great hero, the Bay Area Council for Soviet Jews was the only group willing to join us.

To the council, Wallenberg was not just another individual thrown into the gulags and never heard from again. No one was. Although we never were able to bring Raoul Wallenberg to freedom, we have sought to keep alive his commitment to rescuing Jews at a time the rest of the world was blind and deaf to their plight and suffering.

Thanks to the dedication and determination of the council and our efforts together, countless individuals have escaped their daily hell and have emigrated to regions where they can live freely. Each time Annette and I went to the Soviet Union, the Bay Area Council of Soviet Jews supplied us with the names, case histories, and background information that allowed us to do everything in our power to bring justice for these individuals and their families.

In addition, with the support and advocacy of the council, I wrote letters to the Soviet General Secretary appealing for the release of specific political prisoners and a wholesale end to human and civil rights abuses. The emigration of Soviet Jews is a miracle most of us never thought would happen in our lifetime. Humanity owes a great debt to the Bay Area Council for Soviet Jews.

In the early 1980's, the bay area council helped organize missions for Members of Congress to visit Jewish families in the Soviet Union. During that time, the possession of a Congressman's business card could serve as the only means of protection that a Soviet Jewish family has against harassment and intimidation.

Annette and I, along with Congressman JOHN PORTER and his wife Kathryn, visited several Soviet Jewish families and witnessed the appalling conditions in which they lived constantly under the threat of persecution. It was following one of these visits that Congressman JOHN PORTER and I agreed to form the Congressional Human Rights Caucus.

In its early years, the caucus was an informal group of Members of Congress dedicated to improving the plight of Soviet Jews. Today, the Congressional Human Rights Caucus is a bipartisan organization in the U.S. Congress consisting of over half the Members of the House of Representatives and working on behalf of victims of human rights abuses all over the world.

The bay area council's pledge to Soviet Jews provided the impetus for the establishment and subsequent activities of the Congressional Human Rights Caucus.

The perseverance and relentless ideals of the council have come to fruition in the last few years. The council has helped establish offices similar to their own within the new countries that make up the former Soviet Union.

These offices in the newly emerging democracies are helping to provide the necessary protection and support for Soviet Jews, working to bring an end to anti-Semitic acts in the region, and promoting the adoption of laws based on the protection of fundamental human rights. These initiatives will have a lasting effect on future generations and form the cornerstone for a society based on protecting human rights and building a stable democracy.

When men and women come together out of concern for others, as the Bay Area Council for Soviet Jews has done for 25 years, the world sees that a few individuals can make a difference, that great obstacles can be overcome, and that hope prevails.

Mr. Speaker, Annette and I commend the Bay Area Council for Soviet Jews for the excellent work the organization has completed and we join in the celebration of this 25th anniversary. We look forward to continuing to work closely together in the future and to ensuring that the legacy of human rights remains our guiding principle.

CELEBRATING THE HOLSEY TEMPLE'S 100TH ANNIVERSARY

HON. THOMAS M. FOGLIETTA

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 12, 1992

Mr. FOGLIETTA. Mr. Speaker, I rise today to acknowledge the inspirational works of the Holsey Temple of Philadelphia, PA, which held its 100th anniversary celebration on June 26, 1992.

Holsey Temple's proud history began in 1889 when Wilson Coleman came from Halifax, VA to Philadelphia. Finding no active Christian Methodist Episcopal church, he immediately set about organizaing prayer meetings in various homes in the Nicetown section of Philadelphia. Then in 1892 these meetings moved in Staub Hall and became the Holsey Temple Mission and was received into the CME Church under Bishop Lucius H. Holsey. The next few years saw that struggling mission move from Staub Hall to Friendship and Patterson Halls in Tioga and Nicetown.

Under the pastorate of Rev. J.S. Scott, the land on Hunting Park was purchased. During the pastorate of Rev. J.W.P. Leewood, the basement was built. Here were housed the Sunday school, dining room, kitchen, office, choir room, and restrooms. The Holsey Temple and its congregation continued to grow under the guidance of the many fine pastors who served admirably. The Temple's current location at 5305 Germantown Avenue was purchased and the colonial edifice was constructed under the pastorate of Dr. James Arthur Jones.

Since 1892, the temple's charter members struggled to pave a path for the growth of the church and their descendants. They passed on the baton of faith, knowing that God had provided a wide variety of gifts and talents to his people to build the whole body of faith. As the Holsey Temple celebrates its 100th anniversary, the congregation looks back on the many bishops, presiding elders, pastors, and lay persons who made supreme sacrifices to keep the torch aglow. As they celebrate 100 years of worship, evangelism, study, mission, and fellowship, they give thanks to Almighty God for all He has done in their lives and the lives of the many sainted souls who have gone before them.

TRIBUTE TO PAUL J. FOERSTER

HON. RALPH M. HALL

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 12, 1992

Mr. HALL of Texas. Mr. Speaker, I rise today to pay tribute to a young man from my home county of Rockwall, TX, Mr. Paul J. Foerster.

Last week at the Olympics in Barcelona, Spain, Paul and his teammate, Stephen Bourdow, won a silver medal in sailing. Paul and Steve sailed in the Flying Dutchman classification—known as the "formula one" racing of sailing. This type of sailing—which is done on a 19'10" 364-pound dinghy—requires intel-

ligence, strength, expertise, and gentle persuasion. Paul and Stephen combined the best of these skills to compete against teams from 23 other nations and bring home a silver medal.

This silver medal—although outstanding by itself—is just one victory in a long string of wins for Paul and Steve. These two young men were competitors in collegiate sailing and have been sailing together as partners since 1990. In 1991 and 1992 they were world champions in their class.

Paul has been sailing since he was 13 years old. He boasts a long list of first-place wins in European races, national championships, and Olympic-class regattas. Last year he was named one of the International Yachting Racing Union Sailing Union's best performers.

In addition to being an outstanding athlete, Paul is a graduate of the University of Texas at Austin where he obtained a bachelor of science degree in aerospace engineering. He has been participating in the Olympic Job Opportunities Program where he has been working as an engineer and training 20 hours per week for the Olympics.

Mr. Speaker, I am proud to represent Paul Foerster in Congress. He is an outstanding young man, as are all of our Olympic athletes. The founder of the modern Olympics wrote a creed for the games in which he said, in essence, that the prize does not belong to the medal winners but to the participants. That is true. All of our Olympians are victors. They represented our Nation well. But Paul and Steve's silver medal in sailing makes us even prouder of them. I know that Paul's family and friends are equally proud of his accomplishments, and I congratulate him on his silver medal.

Mr. Speaker, as we adjourn today, let us do so in honor of Paul and the other fine young athletes who competed under the flag of the United States of America.

A TRIBUTE TO OLYMPIC MEDALIST KEVIN MAHANEY

HON. OLYMPIA J. SNOWE

OF MAINE

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 12, 1992

Ms. SNOWE. Mr. Speaker, I take great pride in paying tribute to Kevin Mahaney of Bangor, ME. Kevin is a silver medalist member of the U.S. Olympic Sailing Team. On behalf of the people of the Second District of Maine, I would like to congratulate Kevin for his outstanding achievement in the 1992 summer Olympics.

Kevin demonstrated one of the highest levels of athletic achievement by making the Olympic team. He proudly represented America in the gathering of the world's greatest athletes. However, Kevin rose to the calling that few hear, he won an Olympic medal. In doing so, Kevin proved himself not only as one of the finest American athletes, but rather as one of the finest athletes in the world.

Kevin Mahaney carried on the proud American tradition of excellence in sailing by winning a silver medal for the United States in yachting's Solling class. Kevin has been sailing for over 12 years and his hard work and dedication has put him at the peak of the international sailing world. Kevin has a history of prize winning performances on the way to the Olympics, earlier this year he and his crew sailed the *Exxon* to victory at the world championships. He has been training for the Barcelona Olympics since 1984 and this Olympic medal is evidence of the skill of a master in his field. Through arduous work and an indomitable Olympic spirit, Kevin has made all of Maine, family and friends, very proud.

Mr. Speaker, I ask all my colleagues to join me in commending Kevin and wishing him great success in the future. He truly exemplifies the Olympic ideal as an outstanding model of hard work and achievement. This combination made Kevin a winner in Barcelona and for that he deserves our highest praise and respect.

PERSIAN GULF WAR VETERANS REGISTRY ACT

HON. G.V. (SONNY) MONTGOMERY

OF MISSISSIPPI

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 12, 1992

Mr. MONTGOMERY. Mr. Speaker, on behalf of myself and a number of my colleagues, I am introducing a bill today, the Persian Gulf War Veterans Registry Act.

This bill would require the Secretary of Veterans Affairs to establish a registry program to gather and maintain information regarding the health status of Persian Gulf veterans.

Under the bill, pertinent information regarding individual Persian Gulf veterans, including the circumstances of their service in the Persian Gulf, as well as their health status, would be maintained by the VA. They would also be provided complete physical and mental examinations with appropriate followups and consultations so that the results can be explained to each veteran.

It is vital that we move quickly on this bill so that we can keep a careful watch over this group of veterans. If we have learned anything through our experience with prior wars, it is that we must not fail to maintain a basis for addressing their future health problems if they should arise.

In conjunction with this bill, I want my colleagues to know that I have scheduled a hearing on September 16 on the possible health risks faced by veterans who served in the Persian Gulf during the war. We will invite witnesses representing the VA, DOD, the Department of Health and Human Services, the Department of Energy, the EPA, and representatives of units that served in the gulf.

A CONGRESSIONAL SALUTE TO POLICE OFFICER DALE EDWARD SAAS

HON. GLENN M. ANDERSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 12, 1992

Mr. ANDERSON. Mr. Speaker, on Friday, August 28, 1992, the Los Angeles Police Department will honor the service retirement of one of its finest officers, policeman Dale Edward Saas. It is with pride and pleasure that I rise today to pay tribute to this dedicated individual who has served our community with great distinction.

Born February 28, 1940, in Olean, NY, Dale moved to Compton, CA, in August 1952 with his family. He attended local schools, graduating in 1958 from Compton High School. It was while attending Compton High that he met his lovely wife of 34 years, Barbara.

Following high school graduation, Dale entered the work force as a printer for the Compton Herald American Newspaper. He remained with the newspaper until he joined the Los Angeles Police Department on January 30, 1967.

Dale's career with the LAPD has been an exciting and often dangerous one. He was involved in peace keeping efforts during the riots of 1968 and 1992. In 1984, he was assigned to the XXIII Olympiad in Los Angeles. Throughout his tenure with the department, Dale has been instrumental in establishing projects that unite the LAPD with the community. He has been a part of the Pioneers of the Neighborhood Watch Program and Policing Program. In 1989, Officer Saas became associated with the Senior Lead Office, participating in many school functions, street fairs, parades, and public meetings.

Mr. Speaker, policeman Dale Edward Saas' record of service to our community is admirable. Dale typifies all that is good about the Los Angeles Police Department.

My wife, Lee, joins me in extending this congressional salute to Officer Dale Edward Saas. We wish Dale and his wife, Barbara, all the best in the years to come. We also hope that Dale will have many more years of exceptional fishing.

TRIBUTE TO DENNIS AND BEVERLY KRAMER

HON. DAVID R. OBEY

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 12, 1992

Mr. OBEY. Mr. Speaker, I am very pleased to be able to recognize and congratulate Dennis and Beverly Kramer on winning the IGA Retailer of the Year award.

Dennis and Beverly Kramer, owners of Kramer's IGA in Abbotsford, WI, were selected for this award, the highest honor within the IGA system, from a large pool of nearly 4,000 IGA retailers around the world because of their personal concern, commitment to their community, and their determination to overcome adversity and devastating setbacks.

In 1982, a fire swept through their IGA store, burning it to the ground. However, this tragedy only inspired them to build again. And they did, building a bigger store and doubling their sales in the last 5 years.

This husband and wife team truly represent the American dream with their spirit and entrepreneurial perseverence. They not only give the best of themselves to their employees and customers, but also to their entire community with their involvement with the Chamber of Commerce, the Cub Scouts, among other community activities.

SALUTING THE SOUTH PHILADELPHIA REVIEW-CHRONICLE, THE BEST OF PHILLY

HON. THOMAS M. FOGLIETTA

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 12, 1992

Mr. FOGLIETTA. Mr. Speaker, I rise today to salute one of the fine community newspapers in my congressional district in Philadelphia, the South Philadelphia Review Chronicle.

This month, our Philadelphia Magazine had the wisdom to honor the Review as the best community newspaper in Philadelphia, sharing the limelight with a community newspaper in the district of my colleague LUCIEN BLACKWELL, the Chestnut Hill Local.

As my colleagues know, community newspapers have incredible influence in our districts. Some neighborhood newspapers merely run press releases from local merchants and important announcements about births, graduations, and other family events. Not so for many neighborhood newspapers in my district.

I am lucky to have a number of neighborhood newspapers which cover events and issues as aggressively as the daily newspapers. I am sure the competition for this Philadelphia Magazine award was stiff, because so many of our neighborhood newspapers do such a great job. The South Philadelphia Review Chronicle is one of the best. They keep their many readers, including myself, aware of important issues affecting my constituents. I applaud the Review, its reporters, its brand-new editor Frank Lewis, and most importantly its publisher, Anthony Clifton.

Congratulations for keeping the first amendment alive and well in our neighborhoods.

TRIBUTE TO MR. ISADORE ROOSTH

HON. RALPH M. HALL

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 12, 1992

Mr. HALL of Texas. Mr. Speaker, I rise today to pay tribute to a great man from my district, Mr. Isadore Roosth. Isadore passed away Wednesday, July 29, leaving a void that may never be filled.

The newspapers of east Texas carried stories about his death. They described his numerous business ventures—he was an oilman and an investor. But even more important than how he earned his money was how he gave it away. The newspaper articles described him as a philanthropist. But even that word—with all of its connotations of giving and good deeds—cannot adequately describe Isadore Roosth.

Isadore was the son of Russian immigrants. His father cofounded Roosth and Genecov Production Co. in 1934. After attending Tyler Junior College and graduating from Texas A&M with a degree in chemical engineering, he served in the U.S. Army. Following service in World War II, Isadore came home to Tyler. It was there in that quiet little community in east Texas that Isadore Roosth began the tradition of giving and goodness that established him as a giant among men.

Isadore gave freely, not only of his money, but of his time and energy. It would be impossible to know the number of young people Isadore sent to college, the number of people he helped who were down on their luck. Even the long list of boards he served on and activities he was involved in cannot fully express the amount of good he accomplished.

Isadore served on the board of directors of People Attempting to Help, the East Texas Regional Food Bank, American Heart Association, University Park Hospital, East Texas Regional Health Services, University Cancer Foundation at M.D. Anderson, Mother Frances Hospital Board, east Texas regional health facilities, and the Texas Society to Prevent Blindness.

He also served as a board member of the United Way, the Texas Rose Festival, the Tyler Chamber of Commerce, the East Texas Fair Association, the University of Texas at Tyler Foundation and Development Board, Goodwill Industries, Junior Achievement, and the Kilgore College Institute for the Protection of Children and Adults.

Also, Isadore was an active member and past president of Congregation Ahaveth Achim. He was the past president of the Tyler chapter of B'nai B'rith, and a former board member of the Advisory Council of the United Synagogues of America and the Dallas Home for Jewish Aged. While loyal, devoted, and supportive of his own faith, his goodness and generosity was experienced by other charities and denominations.

Mr. Speaker, Isadore Roosth was a man of faith, of integrity, of compassion, and above all, a man of action. His legacy lies, not in the words he spoke or even in the awards he received, but in his deeds. I am proud to have called him my friend. He was friend to all—to Presidents and Governors, to doctors and bankers. But most importantly, he was a friend to those in need.

Isadore Roosth was kind to us all—Christian, Jew, black, and white. And he has left a legacy for us all—a model of generosity for us to strive for. He will be missed by his family—his four brothers, his son and four daughters and his granddaughters. He will be missed by his friends. He will be missed by those who never knew him yet benefited from his kindness. I will miss Isadore even more than I can express—the good he did, the kindness in his eyes, and his valued guidance.

Yes, Isadore Roosth will be missed. But he will not be forgotten. His 79 years on earth will be remembered for many more years to come as years of fruitful living which were dedicated to the betterment of his fellow man.

TRIBUTE TO RONALD T. RYCROFT

HON. HENRY J. NOWAK

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 12, 1992

Mr. NOWAK. Mr. Speaker, western New York was saddened recently by the news of the death of Ronald T. Rycroft, 49, a dedicated leader in the human services and community health field.

Mr. Rycroft, whom I knew through his service on the board of the Community Commission on Alcohol and Substance Abuse in Erie County, was stricken while hiking on trails in the Adirondack Mountains.

Marguerite T. Saunders, Commissioner of the New York State Office of Alcoholism and Substance Abuse Services, issued the following statement:

Ron Rycroft was a friend and colleague who was one of the leaders in the State's efforts to help alcoholic persons and their families.

As the president of the Association of Alcohol Recovery Care Homes [AARCH] and the Unified Alcoholism Constituency of New York State [UACNYS], he worked tirelessly to establish and improve community residences and services for recovering persons. His dedication will continue to inspire all of us working in this field.

The following article, which appeared August 2 in the Buffalo News, detailed Mr. Rycroft's accomplishments and services to our community:

RONALD T. RYCROFT, HUMAN SERVICES WORKER

Services for Ronald T. Rycroft, 49, an administrator for Buffalo area human services programs and a counselor in community mental health programs for more than 30 years, will be held at 10 a.m. Wednesday, in the Ontario Street United Methodist Church, at the corner of Ontario and Tonawanda streets.

Rycroft, the executive director of the Friends of Cazenovia Manor, a resident program for substance abuse recovery, with locations in Buffalo and Eden, died Thursday (July 30, 1992) when he was stricken while hiking on trails in the Adirondack High Peaks.

Rycroft was born in Gowanda and lived most of his life in Buffalo before moving to Pike in 1984. He received his bachelor of Arts in political science from West Virginia Wesleyan College in 1964 and his masters of management in substance abuse administration June 20, 1992, from Lesley College in Cambridge, Mass.

During his early college years, Rycroft was involved in the civil rights movement and marched with Dr. Martin Luther King in Alabama.

He worked in the human services and community mental health field for most of his career, beginning as a counselor for outreach programs in Orchard Park, East Aurora and other areas in Erie County. Rycroft began working in administration in 1971 as a director/counselor at the Free Port Drop-In Center. He also served as a manager for the Lake Shore Mental Health Association, and as a director and counselor at the Orchard Park Help Center.

Formerly executive director of the Hope Organization, Rycroft stayed with that organization as it merged into the Northwest Buffalo Community Center. He became executive director for the center. Since 1983 he had been executive director of the Friends of Cazenovia Manor and a certified alcoholism counselor. He was also president of the Unified Alcoholism Constituency of New York State and chairman of the Erie County Committee of Alcoholism and Substance Abuse Professionals.

Rycroft was formerly a member of the Letchworth Central School Board and was a lay leader at their Hume United Methodist Church, a United Methodist lay speaker and president of the Association of Alcohol Recovery Care Homes of New York.

Rycroft's work with human services programs and people dates back to his high school and college days, and he received many awards over the years for his service including the God and Country Award from the Boy Scouts of America, the John W. Pontius Award from the YMCA, the 1988 Gus Varga Memorial Award from the Northwest Buffalo Community Center and the 1989 Service to Alcoholism Recovery and Alcoholism Community Residence Award. He also received the 1983 Northwest Buffalo Community Development Corporation Citizen of the Year Award.

An avid bird-watcher, naturalist, hiker and backpacker, Rycroft was in the process of completing his goal of climbing the 46 highest mountains in Adirondack Park to earn membership in the Adirondack 46ers when he died.

Burial will be at 3 p.m., Wednesday, in Pike Cemetery in Pike.

Surviving are his wife, Carol J. Rycroft; a daughter, Melissa E.; and a son, Thomas R., all of Pike; his mother, Eleanor L.; two sisters, Elaine R. Cheney of Portage, Ind., and Joane M. Burton of Williamsville; and two brothers, Kenneth B. of Elkins, W.Va., and Herbert E. of Ithaca.

A TRIBUTE TO OLYMPIC MEDALIST MICHAEL POULIN

HON. OLYMPIA J. SNOWE

OF MAINE

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 12, 1992

Ms. SNOWE. Mr. Speaker, it is with great pleasure that I rise today to pay tribute to Michael Poulin of Fairfield, ME. Michael is a bronze medalist member of the U.S. Olympic Equestrian Team. His accomplishments have been a great source of joy and celebration for the residents of Fairfield, ME. On behalf of the people of the Second District of Maine, I would like to take this opportunity to applaud Michael for his outstanding performance in the 1992 summer Olympics.

Michael Poulin has a long and accomplished history of equestrian excellence. He is a three-time U.S. Equestrian Team National Champion. It is no wonder he continued his success by not only making the U.S. Olympic team, but also by winning an Olympic medal. In doing so, Michael rose above the gathering of the world's finest athletes to prove himself as an elite of the elite.

Michael Poulin made history in Barcelona as a member of only the second U.S. Olympic team ever to win an Olympic dressage medal in the 96-year history of the summer Olympics. Michael's contribution to the team's medal was invaluable and his responsibilities immense. He contributed to his team's medal not only as an expert rider but also as a professional trainer of his own horse—Graf George—and an expert coach to one of his teammates. As an Olympian Michael Poulin has lived up to the very highest ideals of the Olympic tradition and has made all of Maine very proud, especially his wife Sharon and their four children and friends, very proud.

I urge all my colleagues to join me in saluting Michael. His Olympic achievement, his inherent dedication to the sport, and leadership are a model and inspiration to each and every one of us.

TAX PROVISION RELATING TO 1988 DEALS

HON. CARROLL HUBBARD, JR.

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 12, 1992

Mr. HUBBARD. Mr. Speaker, I would like to address my colleagues on the recent decisions of the U.S. Claims Court concerning goodwill and the message those decisions carry regarding future legislative activity on the part of Congress. The Claims Court has now taken the position on a number of occasions that the goodwill provisions of FIRREA constituted a breach of contract for which the government may be held liable to those who acquired thrift institutions in the early 1980's. According to the court, FIRREA's requirements requiring fast write-offs from capital of thrift institution goodwill accounts contravened early assurances from the government that lengthy write-off periods would be permitted. The potential resulting liability of the Government is extensive.

The decisions have significance going far beyond the question of goodwill. In particular, they bear directly on a proposal now contained in H.R. 11 that will be an issue in the tax bill conference scheduled to convene in September. The proposal involves the sale by the Government of numerous thrift institutions at the close of 1988—the so-called 1988 deals. The provision would deny retroactively certain deductions that were promised to the acquirers of thrift institutions in those deals.

The deals are highly unpopular at this time. It is generally accepted—and I share this view—that they allowed some of the acquirers to profit at the expense of the Government and, ultimately, the taxpayer. As a result, it is entirely appropriate for the Government to make use of all legitimate means to reduce the costs of these deals to the public. Yet the proposal in question goes beyond the bounds of legitimacy.

Under the proposal, a thrift acquirer would be denied deductions for losses incurred on the sale of certain thrift assets if the FSLIC reimbursed the acquirer for the losses involved. Since the FSLIC payments are not includable as income, it is argued that the tax benefit associated with the deduction is excessive. The deduction would be denied, therefore, as a matter of tax policy.

The problem with the approach, however, is that the change in the law is made retroactive to transactions entered into in 1988. Yet many of the acquirers—including those who have not profited excessively—entered into those transactions only because of the tax benefits involved. Although they sought cash for their participation, they received instead assurances by the IRS that they would be entitled to these benefits. To withdraw the benefits under these circumstances seems egregiously unfair.

I have been particularly concerned about the conduct of the Treasury Department in this matter. It is notable that the same agency that provided the assurances needed to entice the acquirers to participate in the transactions has now urged the Congress to clarify the law so as to undermine those assurances. I have expressed myself on this point to Secretary Brady in a letter that the Department has already made public. The following is a copy of my letter to Secretary Brady.

SUBCOMMITTEE ON GENERAL
OVERSIGHT AND INVESTIGATIONS,
Washington, DC, July 22, 1992.

Hon. NICHOLAS F. BRADY,
Secretary of the Treasury, Washington, DC.

DEAR MR. SECRETARY: I am writing with regard to proposed legislation, which I understand the Treasury Department supports, that would revoke certain tax deductions that were previously authorized to acquirers of troubled thrift institutions. The deductions are for FSLIC-reimbursed losses associated with the sale of thrift assets acquired in the so-called "'88 deals." It is my understanding that the IRS assured the acquirers in 1988, orally and in writing, that the losses would in fact be deductible, and that the anticipated deductions were a significant factor in persuading the acquirers to take the troubled institutions.

If this is so, the decision of the Treasury to support the legislation in question strikes me as unfortunate, to say the least. No matter what revenue considerations are at stake, I find it difficult to understand how much inconsistent conduct on the part of a government agency can be justified. The acquirers relied in good faith on the representations, oral and written, of government officials, only to see the agency involved not only reverse its position on the matter but urge the Congress to "clarify" an interpretation of the law that is directly at odds with the agency's representations. Such actions can serve only to undermine respect for government and to discourage future business dealings by the private sector with government agencies.

If I have misunderstood any aspect of this matter, I would be delighted to have the benefit of your advice to that effect. Otherwise, I sincerely hope you will reverse the Department's position on this issue and actively oppose the legislation in question. Since from all indications the legislation will be before the Senate Finance Committee next Tuesday, I would very much appreciate your immediate attention to this matter. You have always been reasonable in the past in your approach to difficult issues, and I am confident that you will be so again as you confront the issue at hand.

With best wishes for you, I am

Sincerely yours,

CARROL HUBBARD
Chairman, Subcommittee on General Oversight and Investigations.

Mr. Speaker, the Claims Court cases provide a persuasive reason for the tax bill conferees to reconsider the proposal in question. The fact situations of those cases and the tax proposal at issue bear striking similarities. As with the goodwill legislation considered by the cases, the proposal would have the effect of revoking assurances provided by Government officials. Moreover, the assurances to be revoked again constitute a major part of the consideration that was provided to those engaging in Government-sponsored transactions. That is not to say that the situations are comparable in all respects. They are similar enough, however, to merit concern over the question of potential Government liability.

For that reason and others already discussed, I urge the House-Senate conferees to study this issue carefully in September.

CREDIT UNIONS REMAIN STRONG AND HEALTHY

HON. FRANK ANNUNZIO

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 12, 1992

Mr. ANNUNZIO. Mr. Speaker, I rise today to praise the success of one of this Nation's most important types of financial institutions, institutions owned by and dedicated to serving America's middle and working classes—credit unions.

In testifying before the Senate Committee on Banking, Housing, and Urban Affairs 2 weeks ago, Hon. Roger W. Jepsen, Chairman of the National Credit Union Administration [NCUA], reported that America's credit unions remain strong and healthy, prospering in 1991 despite the tough economic climate and declining interest rates. In addition, Mr. Jepsen pointed out that the NCUA is well positioned to detect any emerging problems, and that the Credit Union Share Insurance Fund, the Federal fund that insures credit union depositors, is well capitalized, with reserves reflecting anticipated economic conditions.

Loan delinquencies declined from 1.7 to 1.6 percent, the lowest rate ever; capital growth increased from 8.2 percent in 1990, to 8.5 percent in 1991; and allowances for loan losses increased a significant 40.9 percent. Preliminary indications for the first half of 1992 show that credit union earnings have increased 20 percent, capital is increasing at about 12 percent, and savings growth has reached an annualized rate of approximately 16 percent. Turning to the insurance fund, costs to date are less than projected, with 1992 losses projected at well below last year's number. The Share Insurance Fund's net income in 1991 totaled $4.1 million, the fund's 20th consecutive profitable year.

In reviewing these outstanding financial statistics, it is important to remember that credit unions are not-for-profit organizations that provide services and credit to their members, who are individuals with a common bond. They are democratically based organizations with each member having an equal vote on the structure and operation of their credit union.

Credit unions give people who might otherwise go without financial assistance a place to save and borrow. Just as importantly, credit unions are a place where members may receive the financial counseling necessary for them to take advantage of opportunities to change their economic situation for the better.

The figures above show that credit unions are doing something right. They are meeting the needs of their members, who include teachers, factory workers, soldiers, and Government workers. It is especially gratifying to know that such a successful industry is fueled by ordinary Americans who work hard for their money—small borrowers, people needing a home mortgage loan, or people wanting to save for retirement—and not by corporations and big investors. Credit unions have avoided many of the mistakes of the savings and loan and banking industries. These industries perhaps should take a look at credit unions, and emulate some of their techniques in steering a straight course through this Nation's economically trouble seas.

I have been an ardent supporter of credit unions throughout my career. Again, I rise in praise of the credit union industry for its continued strength and success.

INTRODUCTION OF INDEPENDENT COUNSEL REAUTHORIZATION LEGISLATION

HON. GEORGE W. GEKAS

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 12, 1992

Mr. GEKAS. Mr. Speaker, I am today introducing legislation to reauthorize for 5 years the independent counsel statute. This law has been in effect since the post-Watergate days of the late 1970's and by now has shown some signs of wear that have highlighted certain shortcomings that need to be rectified.

The most important defect of the law is that it does not cover Members of Congress in a meaningful way. My proposal does. Under my proposed legislation, whenever the Attorney General receives specific and credible information of criminal wrongdoing by a Congressman or Senator he must initiate a preliminary investigation, just as he is required to do for a host of executive branch officials and even certain private individuals.

Mr. Speaker, it is sad to have to admit this, but the American people have justified misgivings about whether their elected Representatives have placed themselves above the law. The independent counsel statute was the outgrowth of scandal within the executive branch, but within the last few years scandal within the legislative branch has given rise to widespread disquiet that can only be dispelled by adding coverage—and I don't mean discretionary coverage—of Congress to the statute. Americans must be assured that laws will be applied against powerful members of the legislative branch without fear or favor—despite the fact that these members control executive branch appropriations and can in many other ways influence how they are treated. Even if the question is only one of perception, the perception of how equally the criminal laws of this country are applied is as important as its reality.

In addition, my proposed legislation makes some needed changes to insure that the statute operates more effectively by bolstering the accountability of independent counsels. Under my proposal, independent counsel must apply for reappointment every 2 years, they must file annual reports with the House and Senate Judiciary Committees and if the statute itself expires, independent counsels would no longer be able to continue themselves in office indefinitely by merely declaring their work was unfinished.

Mr. Speaker, this legislation is absolutely necessary if we are to retain the faith of the American people.

A TRIBUTE TO JAMES W. BROWN, JR.

HON. IKE SKELTON

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 12, 1992

Mr. SKELTON. Mr. Speaker, James W. Brown, Jr., publisher of the Cass County Democrat-Missourian for 30 years, will be honored in September when he will be inducted into the Missouri Newspaper Hall of Fame. I congratulate him for his outstanding work in the newspaper publishing industry.

Brown, a graduate from the University of Missouri School of Journalism, first owned and operated the Willow Springs News and held the office of postmaster in Willow Springs, MO, before moving to Harrisonville with his wife, Wanda. Brown combined the Democrat-Missourian newspaper and the Cass County Shopper into a modern operation, installing a six-unit Goss press and the latest typesetting equipment, making the Democrat-Missourian into one of the State's strongest weekly newspapers.

Brown served as president of the Missouri Press Association in 1963. In 1973, he received a Missouri School of Journalism Honor Medal. An outstanding citizen, he has been active in State politics, business, and civic and professional organizations for many years. He retired in 1985 after 30 years at the Democrat-Missourian.

James Brown continues to reflect the best of the newspaper industry as he is inducted into the Missouri Newspaper Hall of Fame. I congratulate him on his award.

THE PERSIAN GULF HEALTH REGISTRY ACT

HON. LANE EVANS

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 12, 1992

Mr. EVANS. Mr. Speaker, today, I have introduced H.R. 5832, the Persian Gulf Health Registry Act, in order to track and identify the short- and long-term health consequences of serving in Persian Gulf war.

During Operations Desert Shield and Desert Storm, servicemembers were exposed to a variety of toxic substances and parasitic diseases whose effects are not fully understood.

Far too many Persian Gulf veterans have already reported health problems. Within the past year, researchers and veterans' groups have documented over 200 cases of Desert Storm war veterans who have reported unexpected health problems, including leishmaniasis, chronic fatigue, weight loss, muscle weakness, and lung ailments. Furthermore, medical researchers say that these health problems could stem from exposure to toxic fumes caused by the Kuwaiti oil fires and burning trash, experimental drugs administered by the Department of Defense, and other toxins and diseases indigenous to the gulf region.

Throughout the past 50 years, veterans have suffered because our Government has

repeatedly failed to acknowledge its actions and responsibility. We cannot allow history to repeat itself. While the Department of Veterans Affairs and the Army have publicly addressed this matter, their proposals have fallen far short of what is needed. As Members of Congress, we must ensure that Persian Gulf veterans are equipped to fight any illness that their service might have caused, rather than having to combat the Department's of Defense and Veterans Affairs.

Our bill goes far beyond the executive branch's proposal. Their proposals simply focus on discharged personnel and relies largely upon existing research. Our bill, however, also includes children and active-duty servicemembers and requires the Secretary of Veterans Affairs to conduct a longitudinal study. Specifically, the bill would create a registry to identity and track any adverse health problems reported by Persian Gulf war veterans and their children as well as mandating a 50-year longitudinal study on the health effects of service in the Persian Gulf war.

Show that you care about our veterans and their children, support the Persian Gulf War Health Registry Act.

LEGISLATION TO INCORPORATE THE WOUNDED KNEE BATTLE SITE INTO THE NATIONAL PARK SERVICE

HON. TIM JOHNSON

OF SOUTH DAKOTA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 12, 1992

Mr. JOHNSON of South Dakota. Mr. Speaker, today, I am pleased to introduce legislation that will incorporate the Wounded Knee battle site in South Dakota into the National Park Service.

This long overdue measure comes during the "National Year of Reconciliation" between the Indian and non-Indian communities.

This bill is the product of much dialog, negotiation, and compromise and I would like to thank all of the people who worked hard to get us to this point. As a member of the House Interior Committee, the committee with primary jurisdiction over Indian issues and over the National Park Service, I look forward to committee hearings in which all groups can comment and critique the bill. I appreciate that there are groups in South Dakota that hold differing views on what actually should be done to recognize the historical events at Wounded Knee, and it's my conviction and hope that a general consensus can be arrived at by all parties involved. I welcome suggestions and comments from all parties, and I fully recognize that if this project goes forward, it must be the product of the Indian community itself, and not something imposed from Washington.

This bill is not about blame and accusations. Rather, we are here today because it is time to try to honor those who died at Wounded Knee and create opportunity for a new generation of Indian leaders.

LEGISLATION TO ESTABLISH A WETLANDS POLICY CENTER

HON. SOLOMON P. ORTIZ

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 12, 1992

Mr. ORTIZ. Mr. Speaker, I am introducing legislation today to establish a Wetlands Policy Center in Brownsville, TX.

The purpose of this legislation is to develop an innovative, cooperative approach to the preservation, restoration and study of wetlands. In a move to great generosity and community spirit, the Port of Brownsville has agreed to make available over 7,000 acres of wetlands property for wetlands research, education, and policy program activities. This Wetlands Center is designed to attract scholars, experts, environmental interests, Federal agencies, businessmen, and economists to enhance our understanding and preservation of wetlands. Although the initial focus of the Center will be south Texas wetlands, it is envisioned that the Center will ultimately become a truly international program for wetlands research involving interests from the world over. Furthermore, it is envisioned that this Center will become a prototype for the development of graduate degree and career opportunities in the environmental sciences for Hispanics and other minorities in the United States.

The Center will be operated and maintained by the Port of Brownsville and a consortium of institutions of higher education, chaired by the University of Texas at Brownsville. The Center would be overseen by a board of directors cochaired by the Port of Brownsville, the University of Texas at Brownsville, and a designee of the Director of the U.S. Fish and Wildlife Service. Members of the board will be chosen by the cochairs, and, as envisioned, will include representatives from all institutions of higher learning participating in the consortium and representatives of interested Federal agencies.

This Wetlands Center will be a unique regional and national asset. It may be the only Center in the world where researchers, scientists, and students will be permitted to conduct actual, applied research techniques on actual wetlands property contiguous to a heavy industrial enterprise. This will provide a unique opportunity for the country to focus on new technologies and approaches on the issue of wetlands and our national effort to both understand and protect them. Furthermore, this Center will help provide educational avenues for minority students to pursue careers in environmental protection, science and engineering. By supporting wetlands research, we not only preserve sensitive ecological habitats, but we encourage academic learning in this important area of study.

Lastly, I want to recognize the Port of Brownsville for their generosity and foresight in recognizing the value of this property and for utilizing this land in such a unique way.

TRIBUTE TO THE NATIONAL ASSOCIATION OF OLD WEST GUNFIGHTING TEAMS, INC.

HON. DUNCAN HUNTER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 12, 1992

Mr. HUNTER. Mr. Speaker, I rise today to recognize the outstanding service of the National Association of Old West Gunfighting Teams, Inc. This organization, established in 1983, is dedicated to the preservation of the traditions of the Old West and deserves our commemoration.

Boasting a membership of over 1,500 individuals divided into 40 teams, the Old West Gunfighters hold an annual round-up championship competition for thousands of spectators. Wearing authentic costumes of the period, the gunfighters re-enact shootouts and entertain the crowd with comedy skits.

This year, their annual competition is in San Diego, CA. For the first time, they are donating some of the proceeds of this event to our local chapter of the Muscular Dystrophy Foundation. With a high expected turnout, the competition promises to be a resounding success.

Mr. Speaker, I'm sure you'll agree that it is inspiring to see individuals dedicated to the remembrance of one of our Nation's greatest eras. This dedication, along with their noble sense of charity, is a shining example of what it means to be an American.

SUPPORT FOR H.R. 4848

HON. EDWARD J. MARKEY

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, Aug. 12, 1992

Mr. MARKEY. Mr. Speaker, I rise today in an effort to highlight a growing problem facing millions of American families, the need for affordable, quality long-term health care and to urge all my colleagues who share this concern to support an important bill, H.R. 4848.

Long-term health care has become a pervasive issue in this country as the number of elderly Americans continues to rise. It is estimated that by the year 2020 the elderly will comprise approximately 20 percent of the U.S. population; this translates to one in five Americans. Forty-three percent of those will eventually need nursing home care at an improverishing cost of at least $30,000 to $40,000 per year.

It is often the children of elderly parents who are faced with the difficult decision to place a parent in a nursing home or provide them with around-the-clock services at home. Along with these decisions comes a myriad of private and often misleading insurance policies, spurring the need for more consistent and uniform standards of coverage to guarantee that investments in long-term care will be protected.

One of the most widespread problems currently facing consumers is the lack of uniform definitions regarding eligibility and the services to be provided, making it difficult to compare policies and assess coverage. Some consumers buy policies mandating that nursing homes

maintain a daily medical record for each of their patients, only later to find that they may have difficulty in locating a nursing home that will actually provide this service. Other policies require facilities to provide 24-hour nursing services by a registered nurse, also not necessarily provided.

Eligibility, probably the most important provision in a long-term care policy, has been defined by some insurance companies to include only those persons requiring medically necessary care. This narrow definition excludes those who are in need of custodial or home health care, the type most often sought by children of elderly parents. Eligibility has also been determined by the inability to perform activities of daily living, but policies fail to describe guidelines used to determine the degree of impairment necessary to qualify.

Furthermore, under current standards, consumers risk unpredictable premium increases which may force them to cancel the policy and forfeit money they have invested in premiums. Insurance companies shoud allow policyholders to recover these reserves to lessen their financial losses.

In light of these inconsistent standards, we should turn our focus to Federal legislation to provide improved consumer protection in this complex, rapidly growing market. As the Ford Foundation Project on Social Welfare and the American Future has noted, "there is something fundamentally wrong with a system in which people must impoverish themselves to find even minimally decent care in their final years."

Two of our colleagues, Representatives HENRY WAXMAN and RICHARD GEPHARDT, have attempted to deal with some of the inadequacies of current private policies through the proposed bill, H.R. 4848, the Long-term Care Family Security Act of 1992. This bill not only gives Americans the opportunity to get the long-term care they need, it enables them to choose the setting in which to receive the care—either in the home, or a long-term care facility. Through these improved standards, the elderly will have the chance to obtain health services without impoverishing themselves, without burdening their families, and without living in fear of not being able to afford needed care.

This significant legislation deserves our full support as it marks a critical step forward in forging the ongoing debate on health care in this country. Most importantly, it recognizes and responds to the long-term needs of the middle class and must be considered a crucial piece of the health care reform puzzle.

THE BOSNIAN TRAGEDY

HON. TOM CAMPBELL

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 12, 1992

Mr. CAMPBELL of California. Mr. Speaker, yesterday I sent a letter to Secretary Baker about the events occurring in the former territory of Yugoslavia. I would like to insert this letter in the RECORD, and urge my colleagues to do all that is necessary to end these horrible human rights abuses.

DEAR SECRETARY BAKER: I am deeply and profoundly troubled by reports of concentration camps in parts of Bosnia occupied by Serbian forces, and possibly elsewhere in areas of former Yugoslavia. I know you are doing all that you can to ascertain whether these reports are correct. Nevertheless, I am chilled by the news that our European allies, notably Britain and France, are taking a hands-off policy. It is extremely distressing to hear the phrase "ethnic cleansing" applied to an operation of deportation, confiscation, and possibly torture and murder, while the rest of the world looks the other way. Ethnic cleansing is nothing but a thinly veiled term for genocide.

The parallel with World War II is too close to justify any substantial delay in using the united force of the international community to stop whatever activity of this kind is taking place. When I hear of the need to take some time to verify the reports, I am reminded of a time—fifty years ago—in which the United States received a report about plans by Germany to commit horrible atrocities against the Jews which we know, in fact, happened. The world, including the United States and the leaders of the United States, turned their backs on the unspeakable suffering in Nazi Germany, and that should not happen again, Mr. Secretary.

We must be no less vigilant in taking action against mass deportation, confiscation, and, if true, extermination, because the victims are Moslem than we would if they were of any other faith. Nor should we withhold from urging action because the situation is in Europe, with little direct likelihood of affecting the directly affected, whenever inhumane treatment of an entire people based on their race or ethnic origin surfaces in the world. It may well be preferable to urge Europe or the United Nations to act first. But if they don't, we should. The same arguments against U.S. involvement were used during the late 1930's, and Europe and the League of Nations did not act. Remaining silent will only be an open invitation to those forces to continue their ethnic cleansing.

Mr. Secretary—please—use the means at our country's disposal to gain access to these camps, and determine exactly what is going on there, and stop any and all human rights abuses. Bring the matter at once to the Security Council. They may vote to support our taking steps, they may even vote to join them. But please, wait no longer.

Best regards,

Congressman TOM CAMPBELL.

JACKSONVILLE, IL, FINEST

HON. ROBERT H. MICHEL

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 12, 1992

Mr. MICHEL. Mr. Speaker, I would like to bring to the attention of my colleagues the dedicated public service of one of my constituents, JoeAnna Caldwell.

Mrs. Caldwell has been active in many aspects of community service in Jacksonville and was recently voted Jacksonville's Most Influential Person. Consistently over the years, Mrs. Caldwell has lent a helping hand to those in need and she has encouraged others to do so as well.

The following is a synopsis of the life and good works of JoeAnna Caldwell in the Jacksonville community.

JOEANNA CALDWELL

JoeAnna Caldwell received the most votes in the Jacksonville's Most Influential Person poll. When she was growing up in Alton, Illinois, this achievement seemed impossible. Her family was very poor and she has been quoted as saying "Until five years ago I cried every night over my childhood."

During her years in Alton, she began doing things for others, for example, giving out clothes and food for the poor, volunteering as a babysitter for many hard-working parents. Twenty-seven years ago, she married Paul, a Pentecostal preacher. The couple moved to Jacksonville in 1979 to start a new life. She was employed with Mobil Chemical and pastored at Holy Ghost Temple. At this point, Mrs. Caldwell saw the immediate need to help the children in the community who were receiving hot lunches at school, but nothing during the weekends. She started passing out sack lunches to anyone that needed them on the street corner and eventually expanded to four locations.

After a while, she started passing out sack lunches containing peanut butter and jelly sandwiches, a snack cake, celery or carrot sticks, fruit juice and chips each week to "children, black and white, adults and teenagers." This was known as "Saturday's Children."

Two years later in the winter months she started a "Soup Monday" in her home for adults. JoeAnna, along with many volunteers, distribute approximately 25 gallons of soup weekly.

Mrs. Caldwell attended Lincoln Land Community College and became an associate in social justice. She has worked for Big Brother-Big Sister Organization for many years.

In 1990, JoeAnna and her husband, Paul, started the Spirit of Faith Church and added the Faith Center earlier this year, 1992. The Faith Center is a soup kitchen and tutorial center. Currently, she is leading a program for 3-year-olds through high school students on Mondays, Wednesdays, and Fridays, for tutoring them in algebra. She has helped start the "I have a dream" program for children ages 7–11 who can learn about etiquette: how to take and give compliments, manners, and even how to eat correctly. JoeAnna is also waging a war on drugs through prayer. When the new school year begins, she will have talks and motivations for drug addicts only and adult literacy classes. Other items on her agenda include: literacy classes, cooking workshops, employment counseling, and general business knowledge. JoeAnna is also a member of the Jacksonville School District 117 Board of Education.

The Caldwells are proud parents of 10 children, five of them are adopted and one a nephew, all living in their home over the years. The reason for the five adopted children is because when she was a child she wished someone would have adopted her.

JoeAnna just does not only care about the poor and hungry, she does something about it. Her future plans are to expand the Faith Center. She would like to have a basketball court, volleyball net set in concrete, microwave, and a couple of computers.

HONORING FREDA FRIEDMAN

HON. ELIOT L. ENGEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 12, 1992

Mr. ENGEL. Mr. Speaker, it is with distinct pleasure that I recognize today my constituent

and friend, Freda Friedman, on the occasion of her 85th birthday.

During all my years as an active member of the Co-op City community, Freda Friedman has been there every step of the way. She cares deeply about her family and her community, and her work has reflected that commitment. As a charter member of the Co-op City Chapter of Women's American ORT, she has participated in many programs designed to assist the community. As a local past president and treasurer, and as an honor roll chairperson of the Bronx region, she has given the ORT organization many hours of her time.

I know Freda's three children, six grandchildren and her great-grandchild, Gregory, are proud of her accomplishments. We are all lucky to be blessed by Freda's friendship, and we extend to her greetings for a happy and healthy birthday.

UKRAINE INDEPENDENCE

HON. BENJAMIN A. GILMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 12, 1992

Mr. GILMAN. Mr. Speaker, I rise to commemorate the first anniversary of Ukraine independence. As a long time admirer of the Ukrainian people, I am delighted that after so many years of Soviet subjugation, they can realize their aspirations.

Thanks to the Ukrainian people's determination and unyielding belief that democracy would triumph over communism, the long dark night of totalitarian rule has finally ended. I am proud to have worked closely with the Ukrainian-American community throughout the years in an effort to keep the flame of freedom alive in the Ukraine.

All Americans have long encouraged the Ukrainian people to stand up to oppression and are gratified that Ukrainians have finally prevailed in the arduous struggle against communism. Ukrainian-Americans in particular, are to be commended for their dedication to the cause.

We must remember, however, the road to freedom and democracy is not an easy journey. Ukraine still faces enormous challenges. America must continue to be engaged and strive to support this young democracy.

As the thrill of new freedoms fades, the Ukrainian people must deal with serious problems. Building a free market economy will need our help. Economic assistance, including active private sector involvement, will be necessary in the transition from a command to a free market economy.

We are pleased to note that one strain upon the neophyte Government of the Ukraine has been reduced. I am referring, of course, to the growing tensions between the Ukraine and the Russian Federation over the Black Sea fleet have recently signed an agreement giving Russia and the Ukraine joint control for 3 years. After 1995, the two parties will decide on permanent division of the fleet and its assets.

Since the conflict between Russia and Ukraine began, I have urged the United States administration to promote an equitable and peaceful resolution to this problem, as well as the broader issue of the Crimea. The Crimean peninsula has long been a part of Ukraine, and under international law, border changes may not be affected through force or without the consent of the parties.

The United States Government should adjust its attitude toward the new government in Kiev. Ukraine is an independence state, and our policies must reflect that in word and deed. We must make it clear to the leadership of the Russian Federation that we view Ukraine as a completely separate and independence nation.

Let me conclude by congratulating the Ukraine-American community for their hope that Ukraine would once again be prosperous and democratic. We have worked together to bring the dawn of freedom to Ukraine. We will continue to help improve ties between the United States and the newly independence, democratic Ukraine.

A TRIBUTE TO RALPH KINTER, EARTH DEFENDER

HON. GEORGE W. GEKAS

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 12, 1992

Mr. GEKAS. Mr. Speaker, I would like to take this opportunity to recognize a constituent of mine who has recently been honored for his dedication to the environment. Ralph Kinter of Harrisburg, PA, was awarded the National Audubon Society's Earth Defender's Award for his local wetlands study and protection project. Each year the National Audubon Society dedicates this award to an individual who has made a significant difference in preserving the environment. I am proud to say that this year Ralph Kinter was a recipient of this honor.

The issue of wetlands can be characterized as polemic and void of headway because of the differences between coalitions. However, Mr. Kinter's program greatly decreases that gap and helps to create an understanding acceptable to both interests. It is through this project to help identify and protect wetlands with the ultimate goal not to stop development, that he sets the framework for such a pact. Along with other wetlands resource personnel, Mr. Kinter trained local volunteers how to check the accuracy of wetlands delineation maps. After locating potential wetlands, Mr. Kinter and the volunteers worked to protect the endangered species that inhabited the area.

Mr. Kinter is the past president of the Appalachian Audubon Society. He started the wetlands project in 1988 and it is still going strong today. Thanks to Mr. Kinter thousands of animals have been spared an untimely death and wetlands of the Harrisburg area have been preserved. I am pleased to recognize Ralph Kinter as a defender of the Earth.

THE NATIONAL QUALITY COMMITMENT ACT OF 1992

HON. JOHN J. LaFALCE

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 12, 1992

Mr. LaFALCE. Mr. Speaker, America simply cannot afford to conduct business as usual. As American manufacturers increasingly lose ground to their international competitors, we as a nation need to recognize the importance of quality in the production of manufactured goods. Therefore, today I am introducing legislation to encourage our Nation's colleges and universities to teach tomorrow's managers how to produce high-quality manufacturing output.

A nation's standard of living is determined largely by that nation's productive capability. According to a recent MIT study, "Made in America: Regaining the Productive Edge," "[t]o live well, a nation must produce well." The study finds that American industry is not producing as well as it ought to produce, or used to produce, and that, in many cases, it does not produce as well as its international competitors.

Product manufacture is a critical part of our economy. Our manufacturing sector accounts for one-fifth of the United States' gross national product. Foreign competition in the manufacturing sector has increased to the point where, by some estimates, 70 percent of American manufacturing output now faces direct foreign competition.

Manufacturing products that people want to buy is the challenge facing American industry. Our continued success in today's global marketplace depends in large part on the quality of American products. But quality is a learned value. We must teach quality.

EROSION OF ECONOMIC LEADERSHIP

The American economy grew at an unprecedented rate in the two decades following World War II. During those years, the United States was the undisputed world leader in economic output, scientific discoveries, new technology, and innovation.

America's overwhelming economic lead was bound to erode as other countries recovered from the devastation of war and rebuilt their economic base. And in fact, America's productivity advantage has declined in the ensuing years. If we are to maintain a high and rising standard of living domestically, American productive performance must improve. We must change what international observers cite as a flawed American manufacturing philosophy.

THE MALCOLM BALDRIGE AWARD

In 1987, Congress created the Malcolm Baldrige Award. The award encourages American industry to achieve a higher standard of quality. The award has produced a number of success stories, and in its brief existence, has come to define the American standard for excellence. In fact, the award has begun to transform the American industrial philosophy. Our manufacturers are beginning to recognize and preach the value of commitment, vision, quality, and excellence.

Any Malcolm Baldrige Award recipient understands the importance of these values. Any award recipient also knows that the quality

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value must be taught. American workers must know quality in order to produce quality. Tomorrow's workers must be taught quality.

TOTAL QUALITY MANAGEMENT

Quality training is a key to success in the New World economic environment. Total quality management theory teaches that every business, function, and individual has an important role to play in satisfying customers and making defect free products. Proctor & Gamble, Motorola, Xerox, IBM, and American Express have sponsored the Total Quality Education University Challenge to educate university faculty and administration in total quality management.

European manufacturers know the value of quality training. Recently, the Presidents of 14 top European companies formed the European Foundation for Quality Management to promote total quality management techniques. Fifty European universities incorporate total quality management theory into their general management curriculum. European companies anticipate that total quality management will boost their gross earnings margins by 17 percent and will reduce their variable costs by 35 percent.

America must learn the value of quality. A manufacturing consulting firm recently testified before the House Science, Space, and Technology Subcommittee on Technology and Competitiveness that, "if the United States ever expects to receive the full economic benefits of the 'Quality Revolution', we need to develop a national quality implementation strategy that addresses the fundamental roadblocks to quality improvement." One strategy the firm promotes is to make total quality management training a prerequisite in management and engineering degree programs.

COLLEGES' AND UNIVERSITIES' COMMITMENT TO QUALITY AWARD

The legislation I am introducing provides for three annual awards to selected universities and colleges that, first, excel in teaching total quality management and process manufacturing engineering to business and engineering students; second, excel in practicing total quality management in their internal management; and third, excel in employing total quality management in their business relationships with industry.

The legislation provides for further specialized awards of up to $500,000 to be awarded to colleges' and universities' engineering or business schools. The proceeds of the award must be used to further enhance the total quality management or process manufacturing engineering curriculum at the institution.

The award to colleges and universities envisioned in this legislation is modeled after the prestigious and highly motivational Malcolm Baldridge National Council Improvement Award. This legislation goes to the heart of the matter. The leaders expected to ensure our Nation's standard of living tomorrow are being trained in the classrooms of today.

CONCLUSION

Today, national security is increasingly defined in economic rather than military terms. The United States faces unprecedented challenges in the global marketplace. The message is clear. In order to be a world economic leader, we must make the best product in the world.

We must adapt our manufacturing strategies to the New World economic environment. The award provided for in this legislation will accelerate the adoption of total quality management and strengthen American economic performance. The text of the bill follows:

H.R.—

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

The act may be cited as the "National Quality Commitment Act of 1992".

SEC. 2. PURPOSE.

It is the purpose of this Act to provide for the establishment and conduct of a national commitment to quality award program under which awards are given to institutions of higher education that—

(1) teach effective total quality management;

(2) reorient their education programs to emphasize the value and prestige of pursuing careers in process manufacturing engineering;

(3) apply total quality management to the operations of their institution of higher education; and

(4) apply total quality management in their joint research and development contracts with private industry.

SEC. 2. AWARD PROGRAM.

The Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3701 et seq.) is amended by adding at the end the following new section:

"SEC. 22. NATIONAL COMMITMENT TO QUALITY AWARD PROGRAM.

"(a) PROGRAM ESTABLISHED.—

"(1) IN GENERAL.—The Secretary shall carry out an award program to be known as the National Commitment to Quality Award Program.

"(2) CONTENTS.—In carrying out the award program described in paragraph (1), the Secretary—

"(A) shall conduct a competition and make monetary awards in accordance with subsection (b)(1);

"(B) may make special awards in accordance with subsection (b)(2); and

"(C) shall provide each recipient of such a monetary or special award with a medal described in paragraph (3).

"(3) MEDAL.—Each recipient of an award under this section shall receive a medal bearing the inscriptions 'National Commitment to Quality Award' and 'The Quest for Excellence'. The medal shall be of such design and materials and bear such additional inscriptions as the Secretary may prescribe.

"(4) DESIGNATION.—Awards under this section shall be known as National Commitment to Quality Awards.

"(b) AWARDS.—

"(1) COMPETITION FOR MONETARY AWARDS.—(A) From amounts appropriated pursuant to the authority of subsection (j), the Secretary shall periodically conduct a competition and make at least 3 monetary awards to institutions of higher education in accordance with the provisions of this section.

"(B) The monetary awards described in subparagraph (A) shall be in an amount equal to—

"(i) $3,000,000 for the institution of higher education receiving first place in the competition described in subparagraph (A);

"(ii) $2,000,000 for the institution receiving second place in such competition;

"(iii) $1,000,000 for the institution receiving third place in such competition; and

"(iv) not more than $1,000,000 for any other such institution receiving an award pursuant to such competition.

"(2) SPECIALIZED AWARDS.—(A) From amounts appropriated pursuant to the authority of subsection (j), the Secretary may award to any institution of higher education that excels in teaching or practicing either total quality management or process manufacturing engineering services productivity improvement a specialized award.

"(B) The specialized award described in subparagraph (A) shall be in an amount which is not more than $500,000.

"(3) APPLICATION FEE PROHIBITED.—The Secretary shall not charge an institution of higher education a fee in order to apply for or receive an award under this section.

"(c) MAKING AND PRESENTATION OF AWARDS.—

"(1) IN GENERAL.—The President (on the basis of recommendations received from the Secretary), or the Secretary, shall periodically make awards to institutions of higher education which in the judgment of the President or the Secretary have substantially benefited the economic and social well being of the United States through activities that—

"(A) teach effective total quality management techniques and approaches;

"(B) demonstrate continuous improvement in the institution's total quality management curriculum;

"(C) emphasize the value and prestige of pursuing careers in process manufacturing engineering;

"(D) demonstrate continuous improvement in the institution's education program through application of total quality management principles within the institution; and

"(E) demonstrate commitment and application of total quality management principles in joint research relationships that the institution maintains with private industry.

"(2) PRESENTATION CEREMONY.—The presentation of the awards under this section shall be made by the President or the Secretary with such ceremonies as the President or the Secretary may deem proper.

"(3) PUBLICATION AND INELIGIBILITY.—An institution of higher education to which an award is made under this section, and which agrees to help other institutions of higher education improve their total quality management curriculum may publicize its receipt of such award, but such institution shall be ineligible to receive another such award for a period of 5 years.

"(4) USE OF AWARD.—An institution of higher education receiving an award under this section shall use the proceeds of such award to further improve the total quality management and process manufacturing engineering curriculum of such institution.

"(d) AWARD CRITERIA.—

"(1) IN GENERAL.—Awards under this section shall be made to qualifying institutions of higher education that place an emphasis on—

"(A) total quality management, including—

"(i) leadership in teaching how to create a quality culture;

"(ii) leadership in teaching information and analysis such as statistical process contracts for quality improvement;

"(iii) the effectiveness of the institution's quality improvement program to teach integration of quality requirements into businesses' plans;

"(iv) the success of the institution's efforts to teach students how to realize the full potential of the work force for quality;

"(v) teaching quality awareness;

"(vi) emphasis on customer satisfaction;

"(vii) leadership in teaching how to integrate the total quality management philosophy; and

"(viii) demonstrated success in teaching students how to instill the full potential total quality management philosophy in the work force;

"(B) the importance of process manufacturing, including—

"(i) leadership in teaching a better understanding of market forces and industry needs, industrial processes, and manufacturing and quality practices that are driven by market pull, not science push;

"(ii) leadership in developing and teaching a more accelerated approach to research, development, and manufacturing in order to teach students how to move products more quickly from the basic research phase to the commercialization phase with an emphasis on teamwork;

"(iii) leadership in teaching better integration of design and production, including teaching students how to design with manufacturability in mind, and to focus on cost-effectiveness, quality reliability, simplicity, flexibility, and modularity; and

"(iv) leadership in teaching students to give greater consideration to potential commercial applications in the planning and conduct of research and development through input from potential users, and closer working relationship between the national research laboratories, industry, and universities.

"(e) CRITERIA FOR QUALIFICATION.—

"(1) IN GENERAL.—(A) An institution of higher education may qualify for an award under this section only if such institution—

"(i) applies to the Secretary in writing, for the award;

"(ii) permits a rigorous evaluation in accordance with subparagraphs (B) and (C) of the success of the institution's curriculum for total quality management and process manufacturing engineering; and

"(iii) meets such requirements and specifications as the Secretary, after receiving recommendations from the board of overseers, determines to be appropriate to achieve the purposes of this section.

"(B) In carrying out the provisions of clause (ii) of subparagraph (A), the Secretary shall develop evaluation criteria and procedures.

"(C) In applying the provisions of clause (iii) of subparagraph (A) with respect to any institution of higher education, the Secretary shall rely upon intensive evaluation by the board of overseers which shall—

"(i) review the information submitted by the institution of higher education, and through a site visit verify the achievements of—

"(I) the total quality management curriculum and process manufacturing engineering programs of such institution; and

"(II) such institution in practicing total quality management;

"(ii) encompass all aspects of the institution of higher education's total quality management and process manufacturing engineering program, as well as such institution's future goals for its total quality management and process manufacturing engineering curriculum; and

"(iii) include an analysis of whether the institution of higher education is practicing or applying total quality management to its relationships with industry and in its day-to-day administration of the institution.

"(2) CONTRACTUAL ARRANGEMENTS.—The Secretary may, under appropriate contractual arrangements, carry out the Secretary's responsibilities under subparagraphs (A) and (B) of paragraph (1) through one or more broadbased nonprofit entities which are leaders in the field of quality improvement programs and which have a history of service to society.

"(3) RESPONSIBILITIES OF THE BOARD OF OVERSEERS.—The board of overseers shall meet annually to review the work of the Secretary of the contractor and make such suggestions for the improvement of the award process as such board deems necessary. The board of overseers shall report the results of the award activities to the Secretary of each fiscal year, along with its recommendations for improvement of the award process.

"(f) INFORMATION AND EVALUATION.—The Secretary shall ensure that each applicant for an award under this section receives the complete results of the evaluation of such institution conducted pursuant to subsection (e)(1)(ii) as well as detailed explanations of all suggestions for improvements. The Secretary shall also provide information about the awards and successful total quality management and process manufacturing engineering curriculum of the award-winning institutions of higher education to each applicant for an award under this section and other appropriate groups.

"(g) FUNDING.—The Secretary is authorized to seek and accept gifts and donations of property or services from public and private sources to carry out the award program assisted under this section.

"(h) REPORT.—The Secretary shall prepare and submit to the President and the Congress, within 3 years after the date of the enactment of this section, a report on the progress, findings, and conclusions of activities conducted pursuant to this section along with a recommendation for possible modifications thereof.

"(i) DEFINITIONS.—For the purpose of this section—

"(1) the term 'board of overseers' means the board of overseers established pursuant to section 17(d)(2)(B) of this Act for the year in which the determination is made;

"(2) the term 'manufacturing process technology' means engineering training which specializes in understanding and implementing a manufacturing process under which a high quality product is produced in a timely fashion, including simulative engineering and the skills necessary for rapid representative prototyping;

"(3) the term 'Secretary' means the Secretary of Commerce; and

"(4) the term 'total quality management' means a management approach which includes—

"(A) systems thinking; and

"(B) statistical process control, theories of human behavior, leadership, and planning that is quality-driven, customer-oriented, and committed to teamwork.

"(j) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as may be necessary for each fiscal year to carry out this section.".

SECRETARY BAKER VISITS LEBANON

HON. EDWARD F. FEIGHAN

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 12, 1992

Mr. FEIGHAN. Mr. Speaker, I want to commend Secretary of State James Baker's courageous and timely visit to Lebanon on July 23. The last time a U.S. official of Cabinet rank paid a visit to Lebanon was in 1983, following the death of 241 U.S. marines as they slept in their barracks. Lebanon has been enduring a frustrating experience in its attempt to rehabilitate its reputation and to reintegrate itself into the family of nations after the turmoil of its tragic civil war. And this tiny country, which desires nothing more than to be left alone, is still occupied by foreign forces, including 40,000 Syrian troops.

There are still many sanctions placed on Lebanon and Lebanon realizes that convincing the world that it has a credible government capable of guaranteeing security and attracting investment will not be easy. Lebanon has made great progress in its yet unfinished task of disarming militias, strengthening the army, restoring basic public services as well as the release of all Western hostages.

Secretary Baker's trip has given the Lebanese hope that some of the strictures against Lebanon such as the travel ban and the cessation of United States consular services may soon be lifted. Mr. Baker's trip to Lebanon is significant because it is another step that Lebanese society once open, vibrant, prosperous, and truly pluralist will once again return to that same kind of society.

Mr. Speaker, I especially want to commend the American Task Force For Lebanon for its outstanding contribution, drive, and determination to keep Lebanon's plight at the top of the United States foreign policy agenda. Secretary of State Baker's visit to Lebanon is a tribute to their hard work.

COMMEMORATIVE COIN FOR WOMEN IN THE MILITARY

HON. MARY ROSE OAKAR

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 12, 1992

Ms. OAKAR. Mr. Speaker, today I am introducing legislation which will authorize the minting of a commemorative coin to honor the service of our Nation's military women. The proceeds from the sale of these coins will help with the fundraising efforts of the Women In Military Service Memorial Foundation.

Mr. Speaker, in 1986 I was the proud sponsor of legislation which authorized the establishment of the Women In Military Service Memorial. This memorial, which will be constructed at the hemicycle, or Memorial Gateway entrance at Arlington National Cemetery, will tell the story of the dedication, commitment and sacrifice of our military women while in defense of our Nation. Also, for the first time, a registry will be created detailing the roles and service of our Nation's servicewomen.

Authorized in 1986, the private foundation was granted a 5 year time period to establish the memorial. Last fall, a 2 year extension was authorized so that the foundation could obtain final design approval and raise the needed funds to construct the memorial. Hence, the proceeds received from the sale of the commemorative coins will help build the Women In Military Service Memorial.

Mr. Speaker, over the last several years, the foundation has spoken with thousands of women who have served our country in the Armed Forces. Each has a unique story that is part of our American history, never before told. Time is running out. Our veteran population is aging and our country stands to lose part of the history of women's service and the sacrifice and the memories of those who served long ago. This commemorative coin bill will help reach the goal of building the memorial.

TRIBUTE TO PAUL H. DEMPSTER

HON. RONALD K. MACHTLEY

OF RHODE ISLAND

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 12, 1992

Mr. MACHTLEY. Mr. Speaker, I rise today in honor of a great man, Mr. Paul H. Dempster of Woonsocket, RI. Mr. Dempster is the founder of the Because He Lives homeless shelter. As the shelter's devoted founder and ardent advocate, Mr. Dempster has graciously volunteered his life to working for the sake of others.

The shelter has become a sort of refuge of last resort for those who have hit upon hard times. Paul does not question the weary souls who darken his doorway each night in search of a safe place for a night's rest or those who come in search of one of the 7,000 meals he provides each month. He simply offers them a warm bed or hot meal.

But recently, Paul hit hard times himself.

The cancer which struck his spine has left him paralyzed from the waist down. However, Paul remains undaunted in his mission to ease the pain of others. Although confined to a bed at Rhode Island Hospital, Paul Dempster has continued to fight for the right to operate his soup kitchen and shelter amidst criticism that the facility is not needed.

Paul argues that his shelter provides a place for people to receive some immediate help then try to figure out how to restart their lives. Paul recognizes that a shelter and soup kitchen can be that critical bridge for those who want to find the road back but have lost their way.

While Paul is incapacitated, his wife is running Because He Lives but Paul Dempster is vowing to fight back and get back to doing what he does best—serving others in need.

The courageous unselfishness of Paul Dempster provides a lesson in selfless compassion from which we all can benefit. It is my honor and privilege to rise before you to salute such an extraordinary individual. There should be more like you, Paul. I commend Mr. Dempster for his inspiring courage, and wish him a speedy recovery.

REMEMBRANCES OF WORLD WAR II

HON. GEORGE W. GEKAS

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 12, 1992

Mr. GEKAS. Mr. Speaker, I rise today to submit for the RECORD a recent column written by William S. Jackson, editor of the Sun newspaper of Hummelstown, PA. Mr. Jackson has written very eloquently about his remembrances of World War II, and I would like to share those thoughts with my colleagues.

[An Editorial]

PEACE THROUGH REASON

I am sure what I have to say here is going to offend a great number of people, but it is something that has been bothering this writer for several years and I'm going to say it.

I am offended by the Harrisburg Hiroshima-Nagasaki Committee's annual "Candles On The Water" ceremony—scheduled this year for Thursday, August 6, at 7 p.m.—which honors the victims of the bombings of those cities and, as they say in their news release, "today stands as a signal of the world's desire for peace."

I am offended because simply by taking place it implies the people of the area, the United States for that matter, should be overcome with guilt for the bombing of Hiroshima and Nagasaki and should do some sort of annual penance for this.

I am sorry.

I lived through and remember World War II.

I have no feelings of guilt.

I am offended by the apologists who would have us remember only those mushroom clouds and the instant death they represented to thousands of residents of those two cities.

Those same apologists would have you forget Pearl Harbor, Bataan, Corregidor, Wake Island, Manila, China and a near-endless list where Japanese atrocities were committed both before and after the United States entered World War II. They would have you forget how United States diplomats bit their tongues as arrogant Japanese war lords tried to dictate how we would and should become subservient to their whims and desires and how, while we seriously tried to avoid conflict, they were planning a secret attack which would bring the United States to its knees.

I remember how President Harry S. Truman was presented with the estimates by his military planners that a final assault on the Japanese main islands to end World War II would have cost more than a half million American lives and several times more in Japanese lives. I remember how, in violation of every logic in keeping information on weapons secret, President Truman, in his personal anguish, contacted the Japanese leaders and told them of the power of the new atomic weapon the United States possessed. I remember their negative reply and a similar negative reply even after the first bomb was dropped.

Finally, I remember how the dropping of the second atomic bomb finally brought World War II and all its killing to an end.

Hiroshima and Nagasaki were the result of a war we did not want; a war we did not start; but a war we were determined to end.

So * * * I am offended. I am offended local interfaith groups would become a part of this remembrance and thus imply they sanction the guilt they say we should feel. I am offended we remember the victims of the bombs that ended the war, but none of the Japanese-induced victims when they started the war.

If I was to place a candle on the Susquehanna River, it would be to remember the victims of German and Japanese atrocities, not the self-induced victims of their folly.

Yes, I am in favor of "Peace Through Reason" as this group now preaches . . . but as I recall, that is what the United States wanted all along.—W.S.J.

INTRODUCTION OF HOUSE CONCURRENT RESOLUTION 357

HON. GUS YATRON

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 12, 1992

Mr. YATRON. Mr. Speaker, on August 11, I introduced House Concurrent Resolution 357, expressing the sense of Congress with respect to violations of internationally recognized human rights by the Government of Iraq.

Cosponsored by the chairman of the Foreign Affairs Committee, Congressman FASCELL, and Congressman SOLARZ, House Concurrent Resolution 357 calls upon the President to seek the adoption of a United Nations Security Council resolution compelling the Government of Iraq to abide by its international obligations as called for by Security Council Resolution 688.

Adopted by the Security Council in April 1991, Resolution 688 demanded that the Government of Iraq cease its policy of mass repression against its civilian population and allow immediate access by international relief organizations to all those civilians in need of assistance. Unfortunately, unlike the cease-fire resolution adopted by the Security Council, Resolution 688 contains no enforcement provisions.

Currently, the Security Council possesses the authority to force Iraq to comply with the terms of the United Nations cease-fire agreement. When Iraq recently obstructed the work of United Nations weapons inspectors seeking to enter the Iraqi agriculture ministry, the Security Council had at its disposal the use of military action to ensure Iraqi cooperation. Well aware of the prospect of military action, Iraq eventually allowed weapons inspectors into the ministry. The Security Council has no similar authority to force Iraq to comply with Resolution 688.

Mr. Speaker, the overwhelming body of information provided by administration officials, United Nations authorities and human rights groups clearly indicates that the Government of Iraq is committing massive human rights violations and is attempting to starve segments of its civilian population. These brutal policies have increased significantly in recent months. In response to these grave reports, the Security Council convened a meeting yesterday to discuss what actions the United Nations should take to stop these atrocities.

There are a number of multilateral actions the Security Council could authorize to force Iraq to live up to the terms of Resolution 688. Those actions could include: reinstituting a countrywide ban on Iraqi fixed-wing aircraft which have been used to attack the Shi'a population in southern Iraq; providing United Nations guards or military escorts for relief workers who are consistently being blocked from carrying out their humanitarian mandate in Iraq; and placing human rights monitors throughout Iraq to investigate reports of abuses and to report on the Iraqi Government's human rights performance.

Mr. Speaker, if the Security Council is to obtain Iraq's compliance with Resolution 688, it must be prepared to authorize the necessary actions under chapter 7 of the U.N. Charter. House Concurrent Resolution 357 does just that. It calls on the President and the United Nations to respond to the massive suffering being inflicted on the Iraqi people by Saddam Hussein's armed forces.

To be sure, as long as Saddam Hussein is in power, human rights violations will continue to occur. But the United Nations has a moral obligation to put an end to the most outrageous of these abuses.

I urge my colleagues to support House Concurrent Resolution 357 which charts a new course in collective security by defining massive internal human rights violations as a threat to peace and international stability.

Mr. Speaker, at this point I would like to insert a copy of House Concurrent Resolution 357 into the RECORD.

H. CON. RES. 357

Whereas on April 5, 1991, the United Nations Security Council, recalling paragraph 7 of Article 2 of the Charter of the United Nations, adopted Resolution 688;

Whereas Security Council Resolution 688 condemns the Government of Iraq for repressing many parts of its civilian population and demands that Iraq end this repression and ensure that the human and political rights of all Iraqi citizens are respected;

Whereas Security Council Resolution 688 insists that the Government of Iraq allow immediate access by international humanitarian organizations to all those in need of assistance in all parts of Iraq and demands that Iraq cooperate with the Secretary General of the United Nations in pursuing his humanitarian mission in Iraq;

Whereas according to the United States Permanent Representative to the United Nations, the Government of Iraq "is disregarding its obligations under Resolution 688 to permit unimpeded access by humanitarian organizations, and failed to extend an agreement allowing the U.N. to bring humanitarian relief to millions of Iraqis who continue to be denied adequate food, medicine and other essential needs";

Whereas on February 18, 1992, the Special Rapporteur of the United Nations Commission on Human Rights issued a report documenting massive human rights violations committed by the Government of Iraq against its civilians throughout the country in flagrant violation of Security Council Resolution 688;

Whereas the Government of Iraq is engaged in a consistent pattern of gross violations of internationally recognized human rights;

Whereas the report of the Special Rapporteur includes a recommendation to send a team of human rights monitors to Iraq to investigate alleged violations of human rights and to remain in the country until the human rights situation improve drastically; and

Whereas the Special Rapporteur's recommendation to station human rights monitors in Iraq will be considered at the 47th session of the United Nations General Assembly: Now, therefore, be it

Resolved by the House of Representatives (the Senate concurring), That it is the sense of the Congress that—

(1) the Government of Iraq is committing massive human rights violations against its civilian population and obstructing international humanitarian relief efforts in its country, and these actions constitute flagrant violations of Security Council Resolution 688;

(2) the President, in consultation with the Congress, should seek the adoption of a Security Council resolution under Chapter VII of the Charter of the United Nations authorizing appropriate actions to compel the Government of Iraq to comply with Security Council Resolution 688;

(3) at the 47th session of the United Nations General Assembly, the President should support the recommendation of the Special Rapporteur of the United Nations Commission on Human Rights that a team of human rights monitors be sent to Iraq to investigate alleged violations of human rights and to remain in Iraq until the human rights situation improve drastically; and

(4) the President should seek the adoption of a United Nations Security Council resolution authorizing the placement of human rights monitors in Iraq consistent with the recommendation of the Special Rapporteur.

THE DUNK KINGS' 1992 SUMMER CLASSIC TOUR

HON. LUCIEN E. BLACKWELL

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 12, 1992

Mr. BLACKWELL. Mr. Speaker, I rise to bring to the attention of my colleagues the Dunk Kings' 1992 Summer Classic Tour, an affair that has been ongoing for the last 9 years. The Dunk Kings Basketball Team has come to Seattle, WA, to participate in this annual event.

Mr. Speaker, through the leadership, dedication and commitment of Mr. Aaron Dumas and Mr. David Barton, these young athletes who participate in the summer classic tour are exposed to different cultures and experiences that will serve as valuable springboards for their future growth and development in practically any field that they choose.

Mr. Speaker, the record is clear, the youth who have enjoyed a relationship with these very fine gentlemen have been convinced to travel roads that lead to only that which is constructive and understand the importance of a higher education.

Mr. Speaker, I have witnessed first hand the types of miracles that Mr. Dumas and Mr. Barton have been able to perform over the years in working with our youth. I have seen the troubled youth as they have entered the program under the leadership of these very fine gentlemen. Mr. Speaker, in every instance, the end result has been tremendous. It has been amazing. In short, Mr. Speaker, Mr. Dumas and Mr. Barton have, indeed, worked miracles with our youth.

It is through the love, respect and appreciation for one another, Mr. Speaker, that this world will be a better place in which to live. In this respect, Mr. Speaker, Mr. Dumas and Mr. Barton have really played their parts well; therefore, I ask my colleagues to join me in paying tribute to these outstanding gentlemen.

EARLY EFFORTS OF COLONISTS AND AMERICAN INDIANS TO GET ALONG

HON. ENI F.H. FALEOMAVAEGA

OF AMERICAN SAMOA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 12, 1992

Mr. FALEOMAVAEGA. Mr. Speaker, through Public Law 102–188 (S.J. Res. 217, H.J. Res. 342), Congress and the President designated 1992 as the Year of the American Indian. This law pays tribute to the people who first inhabited the land now known as the Continental United States. Although only symbolic, this gesture is important because it shows there is sympathy in the eyes of a majority of both Houses of the Congress for those Indian issues which we as a Congress have been struggling with for over 200 years. In support of the Year of the American Indian, and as part of my on-going series this year, I am providing for the consideration of my colleagues a statement of Wahunsonacock of the Powhatan Confederacy, as published in a book entitled "Native American Testimony." The editorial comment which precedes the article is provided also.

REMOVE THE CAUSE OF OUR UNEASINESS

(During the winter of 1607, the new colonists at Jamestown, Virginia, lost half their number through starvation and disease. Without the help of their native American neighbors in the Powhatan Confederacy, made up of some thirty tribes, the English would have altogether perished. In this 1609 plea for a continuation of friendly relations, copied down by Captain John Smith, the sixty-year-old leader of the confederacy Wahunsonacock—or King Powhatan as he was called by the English—warns of the very abuses that finally drove his people to rise against the Jamestown community. In the spring of 1622, the Indians killed nearly 350 settlers in a matter of hours.)

I am now grown old, and must soon die; and the succession must descend, in order, to my brothers, Opitchapan, Opekankanough, and Catatugh, and then to my two sisters, and their two daughters. I wish their experience was equal to mine; and that your love to us might not be less than ours to you.

Why should you take by force that from us which you can have by love? Why should you destroy us, who have provided you with food? What can you get by war? We can hide our provisions, and fly into the woods; and then you must consequently famish by wronging your friends. What is the cause of your jealousy? You see us unarmed, and willing to supply your wants, if you will come in a friendly manner, and not with swords and guns, as to invade an enemy.

I am not so simple, as not to know it is better to eat good meat, lie well, and sleep quietly with my women and children; to laugh and be merry with the English; and, being their friend, to have copper, hatchets, and whatever else I want, than to fly from all, to lie cold in the woods, feed upon acorns, roots, and such trash, and to be so hunted, that I cannot rest, eat, or sleep. In such circumstances, my men must watch, and if a twig should but break, all would cry out, "Here comes Captain Smith"; and so, in this miserable manner, to end my miserable life; and, Captain Smith, this might be soon your fate too, through your rashness and unadvisedness.

I, therefore, exhort you to peaceable councils; and, above all, I insist that the guns and swords, the cause of all our jealousy and uneasiness, be removed and sent away.

WAHUNSONACOCK,
Powhatan Confederacy.

STEPHANIE L. WATERS WINS BROADCAST SCRIPTWRITING CONTEST

HON. THOMAS R. CARPER

OF DELAWARE

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 12, 1992

Mr. CARPER. Mr. Speaker, I am pleased to rise and report to the House that my constituent, Stephanie L. Waters of Smyrna, DE, has won the Delaware competition in the Veterans of Foreign Wars of the United States and its Ladies Auxiliary 45th annual Voice of Democracy Broadcast Scriptwriting Contest. This year's contest theme was "Meeting America's Challenge."

Stephanie is 17 years old and will be a senior at Middletown High School in September. This talented young woman is the daughter of Ted and Joan Waters.

It is my honor and privilege, Mr. Speaker, to submit to my colleagues and this great institution Stephanie's speech.

MEETING AMERICA'S CHALLENGE

(By Stephanie L. Waters, Delaware winner, 1991/92 VFW Voice of Democracy Scholarship Program)

Meeting America's challenge is standing up for what is right and just: the privileges we possess such as freedom and democracy. We, as Americans need to keep looking to help our own, those who are poverty-stricken, the hungry, the unemployed—all those who are struggling with all the daily domestic problems faced by individuals today. The battle is not on foreign soil; it is on the home-front. In order to win this battle, we need to get back to one of the most sacred assets, we, not only as Americans, but also as human beings, possess—the family. So to meet America's challenge, we must go back to go forward; where family life was more important, and morality and charity were part of every man's, woman's, and child's life.

As American citizens, we must look back to the ideals of our founding fathers. The rights of the Constitution will have to be preserved and upheld and never taken for granted. Because the dark curtain of Communism is not completely torn in two in some parts of the world, we have to realize just how lucky we are to have something as commonplace as freedom of religion. Therefore, to meet America's challenge, families of America must stand together to safeguard their God-given rights.

In order for America to maintain its high ideals, we must take pride in our country and our flag. I believe it is a good thing to pledge our allegiance to the flag each day because it shows respect for our country and those who have always stood ready to protect it. American families need to observe national holidays as they are meant to be; a reserved time of honor and memoriam. Meeting America's challenge is keeping our patriotic spirit alive.

As seen in the recent war in the Middle East, sometimes tragic occurrences can have positive effects. Because most of us were experiencing the same fears and anxieties, we Americans shared a mutual concern. Strengthening the common bond among the peoples of our country is another part of the American challenge. Just as it was critical for the colonists to band together in the new America, it is just as important for us to become as one people today.

Meeting America's challenge will mean resolving prejudices in our great Melting Pot. How are we to stay strong when we fight among each other? Our mixture of culture and heritage should not hinder our society. Rather, it should enrich it and make it stronger and more beautiful. Every family should do its best to become educated in different cultural activities to understand better how to co-exist with other individuals.

With advanced technology and our fast-paced society, we tend to forget about some of the simpler things in life that also make this country such a prosperous place to live. Our busy life-styles sometimes cause essential things to be overlooked. People in America are not taking time to really see the hues of an autumn sunset or enjoy a walk in the evening. Instead, everything is rushed, and people are almost programmed not to feel and experience life. I believe this is a major factor in the increase in divorce rates, broken families, and low self-esteem in children. Families of America need to spend time together, communicate, and even eat dinner together. America's challenge is keeping the family as a close unit to make a better, less confusing, less questionable tomorrow. Quality in American family life, I believe, will decrease the need for many people to take drugs, become dependent on alcohol, or commit suicide.

Meeting America's challenge is bringing unity to our nation, keeping our families together, supporting our brothers and sisters, and protecting the freedoms and liberties we have that make us proud to call ourselves Americans. As in any situation, when a group of people is unified, they are unbeatable. If we are to stay "One Nation Under God, Indivisible, With Liberty and Justice for All," we must stand up for our rights as one conjoined family.

HONORING DANA HUGHES FOR ATHLETIC EXCELLENCE

HON. FRANK J. GUARINI

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 12, 1992

Mr. GUARINI. Mr. Speaker, I rise today to salute Danan Hughes, a Bayonne resident and outstanding athlete. On August 30, 1992, the Bayonne Football Alumni Association will be honoring Danan for his outstanding athletic achievements.

Danan was born Robert Danan Hughes in December, 1970, to Bobby and Vernette Hughes. He has one sister, Vanessa, and he is the grandson of Spurgeon and Rosa Lee Hughes and Everett and Hazel Johnson.

He attended first through fifth grade at S.A. Robertson and then was accepted at the gifted and talented program of the Philip G. Vroom School where he graduated from the eighth grade in 1984.

Danan's love of athletics and athletic competition developed at a very young age. At the age of 6, Danan played in the Bayonne Department of Parks Smallfry League. He continued in the Little League playing for Burger King and Surplus Army and Navy where he held the record for most home runs in rookie season. In fact, Danan's first time at Bat in the Little League resulted in a home run. From Little League, he entered the Pony League playing for Commercial Trust when they won the 1985 championship. In 1985, Danan was also awarded co-MVP for the National All-Stars in the Pony League.

Danan's love of sports was not bounded by baseball fields. At the age of 9, he joined the Pal Basketball League and played with the Marine Corps and Gordon Terminal. Danan also played in the Babe Ruth League and with the Bayonne Brewers, the team that clinched the championship in 1984 and 1988.

Athletic skill is nothing new to Danan's family which boasts a long list of accomplished athletes, many of whom attended Bayonne High School.

As a freshman at Bayonne High School, Danan carried on the family tradition of excellence in sports. He played quarterback and defensive back for the championship junior varsity football team. On the baseball field, Danan was pitcher and outfielder, and on the basketball court, Danan played forward. As a sophomore, Danan pitched and played the outfield, leading the Bayonne High School baseball team to the State championship. Junior year, Danan again competed in baseball, football, and basketball, helping his team win the county championship in baseball and football. As a senior, as quarterback and defensive back, Danan led Bayonne to claim the county title once again. The same year, he was named best defensive back. On the basketball court, Danan led the conference in rebounds, and he and his teammates were State champs.

Danan's skill at athletics did not go unnoticed, In 1987, he was the recipient of the Dr. David G. Morris Award. He was selected to the all-county team for baseball and basketball for 2 years and football for 1 year. In 1987, he was chosen first athlete of the year for Hudson County.

In 1987, Danan also tried out for the New York Mets. In 1991, Danan Hughes was drafted by the San Diego Padres. He was also drafted by the Milwaukee Brewers and signed a contract with them to play summer baseball.

Danan's athletic achievements did not go unnoticed. Upon his high school graduation, Danan was already recruited by a number of universities including the University of Iowa, the University of Nebraska, the University of Illinois, the University of Maryland, Boston College, Penn State, and Syracuse University.

Ultimately Danan chose to attend the University of Iowa where he has been a great success. In fact, he will be playing for the University of Iowa at the Meadowlands in New Jersey of July 29. Included among his outstanding accomplishments at the University of Iowa are most valuable player as a freshman versus Purdue, Most valuable player as a sophomore versus Minnesota. He also led the team in receptions for 2 consecutive years, was second in touchdown receptions in the Big Ten, hit the longest home run in Iowa History, led Iowa in batting average as a sophomore, second highest Big Ten draft pick this

year, and the only player to named to all big ten championship teams and all Big Ten in both baseball and football in the same year.

Mr. Speaker, I ask you and my distinguished colleagues to join me in recognizing the dedication and outstanding athletic performance of Danan Hughes.

BILL CLINTON OFFERS PRESCRIPTION TO SAVE AMERICANS FROM DRUG PRICE GOUGING

HON. FORTNEY PETE STARK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 12, 1992

Mr. STARK. Mr. Speaker, in 4 years in the White House, President George Bush has never made a statement—never—about the crisis in the pharmaceutical drug industry and skyrocketing prescription drug prices.

Not one sentence. Not one word. Not a peep.

For 3 out of 4 of America's seniors, pharmaceutical drug costs represent their top out-of-pocket expense. President Bush says nothing.

Americans pay 62 percent more for the same U.S.-made pharmaceutical drug than Canadians do. Americans pay 54 percent more than Europeans for the same drug "Made in the USA". President Bush says nothing.

Think about it, we do the research and development, taxpayer-subsidized of course. We make the drugs, and if made in Puerto Rico, they get a $3 billion annual tax credit. Then the drug companies turn right around and sell the drugs overseas to Canadians and Western Europeans at about half the cost that they sell to American consumers.

The drug industry's own data reveals that pharmaceutical companies spend much more on drug advertising than on research and development. The PMA says drug marketing costs are in the $10 billion range, yet in testimony before the Senate, Genentech reports that its sister companies spend nearly $27 billion on total marketing efforts, in contrast to a reported $9 billion in research and development.

President Bush says nothing. He offers no plan to help Americans who cannot afford needed prescription medications.

Pharmaceutical drug costs have increased at an average rate of three times the rate of inflation for the past several years. It begs the question: "What good are the drugs, if no one can afford them?"

That's a good question for the White House to answer.

Gov. Bill Clinton, in solid contrast, recognizes the obvious problem that Americans face, particularly senior citizens, in affording needed medications. And he offers a solution.

Governor Clinton offers a plan of action, in the form of "The Clinton Plan".

Under a subtitle, "Stop Drug Price Gouging," Governor Clinton outlines two bold principles for action:

First, eliminate tax breaks for drug companies that raise their prices faster than Americans' incomes rise to protect American consumers and bring down prescription drug prices.

Second, discourage drug companies from spending more on marketing than on research and development—because saving lives must come before making money.

This country needs a vision. It is yearning for leaders with courage, for a change.

The issue of prescription drugs is but a metaphor for a call for action. For those Americans currently being gouged by greedy pharmaceutical companies, Bill Clinton offers a ray of hope.

Mr. Speaker, I have introduced legislation, H.R. 3823, that reduces tax breaks for drug companies that consistently hike their prices above the Consumer Price Index.

I'll bet the White House says nothing—or promises a veto.

PUBLIC HOUSING NEEDS HELP NOT "HOPE"

HON. WILLIAM L. CLAY

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 12, 1992

Mr. CLAY. Mr. Speaker, it is truly unfortunate that aid to the poor and help for the distressed inner cities is not high on the agenda of the current administration. What is even more unfortunate is that that program which Secretary of Housing and Urban Development, Jack Kemp, has put at the top of HUD's limited public housing agenda—the HOPE 1 public housing sale initiative—promises to do very little to improve public housing.

As Lawrence J. Vate, a professor of urban development at the Massachusetts Institute of Technology, points out, "public housing tenants are very poor and getting poorer," yet HUD continues to promote a "Kempian fantasy of homeownership." Professor Vate has written an excellent commentary highlighting some of the critical weaknesses in HUD's public housing sale program. I commend this thoughtful article, which appeared in the Washington Post on August 3, 1992, to my colleagues in Congress.

[From the Washington Post, Aug. 3, 1992]

JACK KEMP'S PET DELUSION

PUBLIC HOUSING TENANTS ARE TOO POOR TO BUY THEIR APARTMENTS, AND THEY'RE GETTING POORER

(By Lawrence J. Vate)

In a society that venerates the privately-owned single family home, public housing has remained perpetually contentious. Now that there is reinvigorated debate over the successes and failures of a half-century of government-sponsored social welfare programs, public housing is also coming under renewed scrutiny. Lost somewhere in the shuffle of rapid policy-making, however, has been the gap in logic between the Bush administration's ideological commitment to home-ownership opportunities for public housing residents and the mounting evidence of their increasingly extreme socioeconomic deprivation.

Inspired by the sales of council housing in Britain, HUD policy-makers have wholeheartedly embraced the idea that American public housing should be sold off to tenants. Yet an increasingly large majority of public housing families lacks adequate financial resources to participate, and much of the public homes stock falls far short of the desirable environments usually associated with homeownership.

Ignoring the results of a HUD-sponsored study that cast considerable doubt on HUD's Public Housing Homeownership Demonstration Project, HUD Secretary Jack Kemp incongruously continues to tout public housing homeownership. Can he really be oblivious to the ways that such limited and idealized alternatives to public housing are almost comically implausible notions for most public housing residents?

Public housing tenants are very poor and getting poorer. In the vast majority of large public housing authorities, average household income has been declining, at least since the mid-1980s. HUD now estimates that more than 80 percent of the non-elderly public housing population lives below the poverty line and that the very poorest families are disproportionately non-white.

In large public housing authorities, approximately two-thirds of non-elderly families are headed by single women. As a percentage of only those families with dependent children, the preponderance of female-headed households is even more overwhelming. The national average is 85 percent, and it surpasses 95 percent in some cities. About three-quarters of public housing families report receiving no income from employment, and a growing majority of non-elderly public housing families receive welfare.

These trends identify a population that is ever more vulnerable, both economically and physically. Because public housing has been asked to bear special responsibility to shelter the poorest of the poor, there has been an aggregation of particularly vulnerable households in many multifamily developments at a time when drug related crime and violence is on the rise. Is it then surprising that in some places the public housing stock has been allowed to deteriorate so much that even the Bush administration calls it "severely distressed"?

The National Commission on Severely Distressed Public Housing was established by Congress in December 1989 and charged with establishing a "national action plan to eliminate distressed public housing by the year 2000." This blue-ribbon panel of housing advocates and elected officials released its preliminary report last month.

As one of its principal recommendations, the commission proposes new legislation to create a separate funding program specifically targeted at severely distressed public housing. The creation of this new HUD Special Unit on Severely Distressed Public Housing seems promising and fits neatly within the commission's mandate to address this portion of the public housing stock, but it must not be allowed to distract attention from the rest of the approximately $30 billion backlog of public housing needs.

Without broad attention to all the developments in the nation's public housing stock and to the neighborhoods that surround them, today's relatively stable developments may become part of tomorrow's problems, and even "successfully revitalized" developments may once again decline.

Whatever the statutory changes and increased funding that may follow from the commission's recommendations, important questions remain for the future of public housing. Will a renewed focus on "worst-case" housing developments take away from efforts needed to prevent those developments that are only slightly better off from continuing to decline toward "severe distress"? Will policy-makers lose sight of the broader

economic impoverishment that characterizes life in most public housing and in the neighborhoods that surround it? Will the commission's recommendations lead chiefly to improvements in the physical environment without corresponding investment in job training and service provision?

The Commission's Preliminary Report acknowledges that investment of millions of dollars in public housing sites "without stimulating any neighborhood revitalization would be counterproductive," but there is as yet no call for significant additional funds to initiate this stimulus.

Instead, despite a renewed commitment to sustain the public housing stock, the Commission's Preliminary Report cannot resist multiple forays into the Kempian fantasy of homeownership. In the end, though, it is not the ideals of the public housing homeownership advocates that are at fault; it is the superficiality and disingenuousness of their commitment in the context of extreme socioeconomic deprivation that must be called into question.

TRIBUTE TO SANTA MONICA HIGH SCHOOL ORCHESTRA—CHAMPION OF VIENNA MUSIC FESTIVAL COMPETITION

HON. MEL LEVINE

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 12, 1992

Mr. LEVINE of California. Mr. Speaker, I rise today to pay special tribute to a group of young people that have brought great honor to their school and to their community. The 85-member orchestra of Santa Monica High School recently participated in the International Youth and Music Festival in Vienna, one of the most prestigious musical competitions in the world, and emerged as champion. Their great achievement is heightened by the fact that they are the first public high school ever to earn such distinction.

The International Youth and Music Festival is run by the nonprofit Association for International Cultural Exchange and is sponsored by the city of Vienna and the Austrian Ministry of Education and Arts.

The Santa Monica High School orchestra was invited to attend the event by a talent scout in spring, 1991. Orchestra members and their families spent the following months raising the $100,000 needed to cover the cost of the 2-week-long trip. The student musicians collected donations by giving concerts at local venues and by playing at weddings and for community groups.

The competition began in Vienna on July 11th. On that day, the Santa Monica High orchestra joined 30 other musical groups for an opening concert festival. Over the next 3 days, the groups were ranked by judges and the Santa Monica High School orchestra was selected to play in the final round. The school's chamber orchestra was also chosen for the final round of competition.

On July 16, the Santa Monica group was declared the winner. In addition, the chamber group of the orchestra's best string players won special recognition for excellence. The student musicians were also bestowed with the honor of playing the final concert of the festival.

The students in the Santa Monica High School orchestra have set a fine example for their fellow students and their community. They have proven that American students are among the most talented anywhere in the world.

I ask my colleagues to join with me in honoring these talented young men and women.

THE LEGACY OF RAOUL WALLENBERG

HON. TOM LANTOS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 12, 1992

Mr. LANTOS. Mr. Speaker, last week marked the 80th anniversary of Raoul Wallenberg's birth. A hero who saved the lives of thousands during the dark years of the Second World War, we remember him today as an extraordinary and heroic man whose life both directly and indirectly touched many.

When we speak to our children of the Holocaust, as we must, we grasp for a ray of light amidst the darkness brought on by the Nazis. Raoul Wallenberg was that ray of light. He inspires a faith in humanity that withstands the horrors of that darkest era.

Wallenberg left the security and affluence of his home in Stockholm and went into the eye of a storm—Budapest, in the grip of Nazi terror. His belief in justice, mercy, and brotherhood led him on a courageous and dangerous odyssey.

While the world stood by as the Holocaust raged, Wallenberg became an angel of mercy. Using his influence as a diplomat from neutral Sweden, using his wit and audacity, he courageously bluffed his way through one explosive situation after another.

Claiming that they were Swedish citizens, he literally plucked Jews off of trains heading toward death camps. He promptly issued them Swedish visas and passports and hid them in safe houses wherever he could. Amazingly, he was able to convince the Nazi government to allow Jews to leave the country under diplomatic cover.

Raoul Wallenberg put his life on the line every day for people who were not related to him by any ties of kinship or nationality or religion, only because he believed in the brotherhood of man. He has shown us that one individual—motivated only by a compassion for his fellow human beings—can face evil and triumph. One person can make a difference.

Mr. Speaker, if there is a genuine hero to illuminate our age, it is Raoul Wallenberg. His is a profound legacy: The knowledge that as long as there is even one Wallenberg among us, the evil of tyrants cannot triumph. As long as there are men and women who accept the challenge, the oppressors of humanity will be exposed, condemned, and overcome.

DECLARATION BY CROATIAN OPPOSITION PARTIES

HON. JAMES A. TRAFICANT, JR.

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 12, 1992

Mr. TRAFICANT. Mr. Speaker, I enter the following declaration by the Croatian Opposition Parties into the CONGRESSIONAL RECORD for the consideration of Congress.

DECLARATION OF THE COORDINATING COMMITTEE OF THE CROATIAN OPPOSITION PARTIES

IRREGULARITIES OF THE REPUBLIC OF CROATIA'S STATE ELECTIONS IN 1992

Declared by representatives of the undersigned parties, based on factual evidence and credible written statements of the Electoral Commission of the Republic of Croatia, those being:

1. That more than one print shop printed the electoral ballots, namely "Narodne novin" and "its sub-contractors," thereby eluding the Electoral Commission of the Republic of Croatia of an accurate count of BALLOTS, and consequently, leading to election irregularities.

2. That ballots were not controlled nor distributed by the Electoral Commission of the Republic of Croatia, rather distribution was executed by the aforementioned "print shops," directly from the print shops to the polling places, which is obvious evidence of election irregularities.

3. That upon the completion of elections, ballots are being kept not by the Electoral Commission of the Republic of Croatia, rather by each Municipal Council and a small amount of which is in print shops, thereby proving that the Electoral Commission of the Republic of Croatia cannot have had complete control of the elections.

4. That The Electoral Commission evidenced the finding of 63 ballots in Zagreb at the crossing of Knezije & Selske Streets, across from the "Nama" store at Srednjaci, which is direct proof of the irregulavity of these elections.

5. That there is a series of other credible proof which shows that valid ballots have turned up in significant numbers in many areas, and that the Croatian Democratic Union broke into the computer system of the City Electoral Commission (GIK)—adding only further evidence to the irregularity of these elections.

Based upon the above information, we seek from the Republic's Electoral Commission that it give its judgment as to the validity of these elections, and to do so in keeping with election laws and instructions of the Electoral Commission.

Cosigning Parties: Croatian Social Liberal Party, Croatian Peasant Party, Croatian Democratic Party, Social-Democratic Party of Croatia, Croatian Party of Rights, and, Croatian Christian-Democratic Party, Zagreb, August 11, 1992.

PROTECTING OUR COMMUNITIES FROM HANDGUN VIOLENCE

HON. STEPHEN J. SOLARZ

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 12, 1992

Mr. SOLARZ. Mr. Speaker, on February 26 of this year, a high school student shot two

classmates at Jefferson High School in Brooklyn. This gruesome incident highlighted the terrible plague of armed violence that has gripped our Nation. Unless Congress acts, and acts soon, to stop the flood of guns into our communities, we risk losing an entire generation.

The human costs of unrestrained firearms violence is staggering: In 1990, nearly 25,000 Americans died from handgun violence; the FBI reported 11,750 handgun homicides which accounted for half of all murders in 1990; handguns were used in about 12,000 suicides and another 1,000 unintentional shootings; every 2 years firearms take more American lives than were lost during the entire Vietnam war; and among all youths 15- to 19-years old, gunshot wounds are the second-leading cause of death after traffic accidents. For African-American males in the same age group it is the leading cause of death.

The Jefferson High School shootings were hardly an isolated incident. During the 1991–92 school year, there were 10 incidents where a gun was brandished or fired in a New York City school. Three students were killed and three more were injured. During that same time period, 110 handguns were seized in New York City schools.

Treating firearms injuries costs society more than $1 billion each year. Much of this cost is paid by the taxpayers.

The rising death toll from this war in our streets is a public health and safety crisis of historic proportions.

The head of the U.S. Public Health Service, Dr. James Mason, wrote in the July 10, 1992 *Journal of the American Medical Association* that "[A]s a physician * * * I see, in youth violence, an epidemic as frustrating as the acquired immunodeficiency syndrome and as debilitating as such past scourges as polio."

Writing in the same issue, the former U.S. Surgeon General, Dr. C. Everett Koop, pointed to detailed research which "paint(s) a grotesque picture of a society steeped in violence, especially by firearms," and argued that "no society, including ours, need be permeated by firearm homicide. This is unacceptable. Prior solutions have not succeeded. New approaches are required."

Mr. speaker, we must take swift and strong action if we are to rescue the next generation from the rising of tide armed violence. That is why today I am introducing the Handgun Control Act of 1992. This legislation would outlaw the possession, importation, transfer or manufacture of a handgun except for use by public agencies, individuals who can demonstrate to their local police chief that they need a gun because of threat to their life or the life of a family member, licensed guard services, licensed pistol clubs which keep the weapons securely on premises, licensed manufacturers and licensed gun dealers.

Is such drastic action necessary? I believe it is. There are approximately 66.7 million handguns in circulation in the United States, and the supply is increasing by 2 million handguns each year. These weapons account for more than half of all murders annually. In New York City, firearms, primarily handguns, were used in 69 percent of all homicides.

In 1991, criminals fired an estimated 444 shots at New York's finest, A 26 percent increase over 1990, and a 77 percent increase in just 6 years.

Handguns are a menace, not a reasonable way to protect our families, homes and businesses. A study published in the New England Journal of Medicine found that it is 43 times more likely for a gun kept at home to be used on its owner than in self defense. According to the FBI, only 215 "justifiable" homicides were committed with handguns in 1990, a tiny fraction of all handgun killings.

Does the Federal Government need to intervene? I believe there is no other way. Our local governments can't control the flood of weapons without help from Washington.

Even in New York City, with one of the toughest gun laws in the Nation, guns can be purchased with ease by criminals on the street. Commissioner Lee Brown of the New York City Police Department left no doubt where these guns come from when he testified before a House committee. Of the 17,575 guns seized by the NYPD last year, 96 percent were purchased in States without strict gun control. A story in the April 19, 1992 edition of New York Newsday, citing data from the Bureau of Alcohol, Tobacco, and Firearms, reported that 99 percent of all guns used in crimes in New York city came from out of State. According to the story, 35 percent came from Virginia, 35 percent came from Florida, 15 percent came from Ohio, and 7 percent each from Georgia and Texas. Without a uniform national standard, our communities are powerless to keep weapons out of the hands of criminals.

Can we afford a public policy that results in the deaths of 25,000 Americans each year? How many more of our children will have to die before we as a nation resolve to put an end to the killing? The time has come for the Congress to place reasonable controls on handguns. I urge my colleagues to join me in supporting the Handgun Control Act of 1992.

THE 100TH ANNIVERSARY—THE MATCHBOOK

HON. DICK SWETT

OF NEW HAMPSHIRE

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 12, 1992

Mr. SWETT. Mr. Speaker, I rise today to ask my colleagues to join me in paying tribute to a great American tradition which is now a century old: the matchbook. One hundred years ago, a Pennsylvania lawyer named Joshua Pusey created the first matchbook. Since then, book matches have become part of our cultural fabric.

Whether igniting the stove for cooking dinner, or lighting the candles on a birthday cake, book matches have played an important role in our society. During World War II, millions of matchbooks were dropped behind enemy lines in Europe with messages that urged people in occupied countries to offer stiff resistance to the Nazi army. Millions were also dropped by the Air Force throughout the Philippines, informing the Filipino people, with the now famous quote, "I shall return", that General MacArthur was coming.

The advertising world owes much to this little invention which has found its way into the hands of millions of people. From chewing gum to stamp collections, from correspondence schools to band-aids, almost everything has been advertised on a matchbook at one time or another. Commemorative books of matches are commonplace at weddings, and virtually every hotel and restaurant throughout the country has their logo imprinted on matchbooks. Even Air Force One has a special matchbook printed exclusively for it.

With the recent awakening to the environmental needs of our planet, book matches are beginning to enjoy a resurgence in popularity. Unlike disposable lighters, matchbooks are made primarily from recycled materials. On this centennial of the creation of the match, the D.D. Bean Company of Jaffrey, New Hampshire even created an Earth Day Match, which has eliminated virtually all material from the book match that would be harmful to the environment.

The five remaining American manufacturers of matchbooks have consolidated into an association known as the American Match Council. It is the aim of this organization to let the world know that American match manufacturers are providing a safe, inexpensive, and environmentally sound light, and that they have been doing so for a century.

Mr. Speaker, the efforts, ingenuity, and industry of these fine American institutions should be recognized and applauded, and the example set by the American Match Council will help "light" the path of industrial leadership for other American firms.

FORTUNE MAGAZINE'S FOCUS ON CHILDREN

HON. THOMAS J. DOWNEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 12, 1992

Mr. DOWNEY. Mr. Speaker, Fortune magazine recently devoted its entire edition this week to a special report on children in crisis. The significance of this outstanding report is that it is published in a magazine more noted for its passionate defense of the free enterprise system.

But what Fortune magazine has recognized is that the struggle to save America's children is everyone's struggle. Enhancing the quality of life of children is very important to the future of American business. Without a quality work force, America cannot maintain its competitive position in the world.

I want to urge my colleagues to read all the articles in this special issue of Fortune magazine. But Mr. Speaker, with your permission, I will include the introductory article in my remarks.

STRUGGLING TO SAVE OUR KIDS

(By Louis S. Richman)

If the well-being of its children is the proper measure of the health of a civilization, the United States is in grave danger. Of the 65 million Americans under 18, fully 20% live in poverty, 22% live in single-parent homes, and almost 3% live with no parent at all. Violence among the young is so rampant that the American Academy of Pediatrics calls it a public health emergency.

The loss of childhood innocence is a recent phenomenon, affecting all income levels and

all ethnic groups. Playground fights that used to end in bloody noses now end in death. Schools that once considered talking in class a capital offense are routinely frisking kids for weapons, questioning them about drugs. AIDS has turned youthful experimentation with sex into Russian roulette. A good public education, safe streets, and family dinners—with both mother and father present—seem like quaint memories of a far distant past. The bipartisan National Commission on Children wrote in "Beyond Rhetoric," its 1991 report, that addressing the unmet needs of American youngsters "is a national imperative as compelling as an armed attack or a natural disaster.

Fortune is unwilling, as some policymakers implicitly are, to write off an entire generation of kids. Fortune is unwilling to wait for today's children to grow up—or to die young—before speaking out in support of their welfare and their future, which, after all, is our welfare and our future. That's why Fortune has devoted this issue to Children in Crisis. The stories in it do not simply recount the problems of growing up in America in the Nineties; they offer solutions to those problems. Solutions cannot come fast enough. Consider:

Every day, more than 25% of women giving birth, 2,900 in all, will have received no prenatal care in the first trimester of their pregnancies. And 25% of that group will have had late care or none at all. Their babies are far more likely to be under normal weight, to have learning disabilities, and to die in their first year of life than children who have had prenatal care.

Children under 16 make up the largest group of Americans without medical insurance. And 56% of kids without health insurance live in households with incomes *above* the poverty line. The U.S. infant mortality rate, 9.8 per 1,000 live births, is higher than that of 19 other industrialized nations, including Spain and Singapore. The proportion of U.S. nonwhite 1-year-olds immunized against polio, measles, and other preventable illnesses lags behind that of 55 other nations, including Iraq and Libya.

The parents of nearly 2,750 children separate or divorce each day. More than half of all white kids and three-quarters of African-American children under 18 will spend some part of their childhood in a single-parent household.

Every day more than three children die of injuries inflicted by abusive parents. Nearly 90 kids a day are taken from their parents' custody and added to the overburdened foster care system.

Mothers of children under 6, the fastest-growing segment of new entrants to the labor force in the 1980s, struggle to find child care solutions for their 11 million children. Some 1.3 million latchkey kids ages 5 to 14 are left to fend for themselves for much of the day.

The typical 14-year-old watches three hours of television daily but does just one hour of homework. During the average school day, more than 2,200 kids drop out. These kids are 3½ times more likely to be arrested and six times more likely to become unmarried parents than those who graduate.

Every day over 500 children ages 10 to 14 begin using illegal drugs, and over 1,000 start drinking alcohol. Nearly half of all middle-schoolers abuse drugs or alcohol, or engage in unprotected sex, or live in poverty.

Over 1,400 teenage girls a day—two-thirds of them unmarried—become mothers. Only 60% of these teen moms will earn a high school diploma or its equivalent.

Among 15- to 19-year-olds, homicide by firearms is the third-leading cause of death (after motor vehicle crashes and suicide) for whites, and *the* leading cause of death for blacks.

Even in this election year, when domestic issues dominate the presidential campaign, politicians find it easier to embrace children than their issues. Kids cannot vote. They don't fill the coffers of political action committees. And they lack the lobbying clout of the elderly, on whom the federal government lavishes $354.5 billion each year—five times more than it spends on children—though the population of Americans over age 65 is less than half that of children under 18.

People of all political persuasions should be able to find areas of agreement. Despite their emphasis on "family values," most conservatives recognize that today's families are vastly different from the ones they grew up in. And few big-government liberals can disagree with Ronald Reagan's former Education Secretary, William Bennett, who says, "Trying to legislate solutions to help distressed children is the equivalent of trying to save a patient by implanting an artificial heart. Only healthy families headed by responsible parents in caring communities can succeed in raising healthy kids."

Corporate America's stake in children couldn't be clearer: The well-being of kids is a competitiveness issue. Business knows well how important education is. If current trends continue, more than 20% of today's sixth-graders will quit before graduating from high school. The Committee for Economic Development (CED), a business-backed research group, estimates that each year's dropouts will earn, in aggregate, $237 billion less (measured in 1990 dollars) over the course of their working lives than those who receive a diploma.

That reduced spending power will slow economic growth, lower living standards, and further widen the gap between the haves and the have-nots. As the tax base shrinks, government will be forced to lift spending for welfare, prisons, and the other adversities of a growing young adult population ill-equipped to lead productive lives. By our continued neglect, a 1991 CED report warns, "we are jeopardizing America's survival as a free and prosperous society.

Fixing schools alone won't solve the problem. Chester E. Finn Jr., an education specialist currently at the Edison Project, which is trying to start a chain of private elementary schools, points out that of all the hours children are alive from birth to age 18, only 9% of them are spent in school. Says William S. Woodside, chairman of Sky Chefs Inc., who headed the National Commission on Children's corporate advisory board: "Nothing business hopes to achieve in the areas of school reform and building a better-skilled work force will happen unless it starts paying attention to early childhood development."

Employers are rapidly stepping up their commitments to helping young children by easing the burdens of working parents. From 1986 to 1989, the number of companies offering child care assistance programs to employees more than doubled, to 5,400. Of course, those efforts can't reduce all the stress on dual-career families. Ron James, CEO of the Minnesota operations of US West Communications and co-chairman of the state's Action for Children Commission, grew up in a poor black family headed by a single mother in Port Arthur, Texas. But he recalls fondly the values imparted through leisurely conversations around the dinner table. Now families are too busy for that. "The new mode of communication between parents and children," he says, "is through notes held to refrigerators by magnets."

More dangerous, and increasingly more common, modes of family communication: beatings, brutal language, and intimidation. In some families parents don't communicate with their children at all. Because of alcoholism, overwork, or indifference, there are no stories, no family folklore, no joking around, no values, no discipline.

Simply ratcheting up the efforts of the present welfare system by adding programs and channeling more money will not help poor children, those most at risk. As many states and localities are discovering, the problem isn't too few programs but too many. In a report last February, Minnesota's Action for Children Commission found that the state spends $4.5 billion on schools and other children's programs annually, but that river of money trickles through some 250 youth and family agencies in 32 different departments, each with its own eligibility and accountability standards.

What's needed is cooperation among public and private youth services, coordination on a community-wide basis, and concentration on preventing problems early instead of dealing with crises when they get out of hand. How can corporations help? James Renier, CEO of Honeywell, thinks business can bring to organizations that work with children the same emphasis on quality, customer orientation, and bench-marking that has been the hallmark of corporate restructuring. But more business people must be involved. Says Reiner: "We won't start moving the rock pile until the day we begin shoveling."

The most successful and cost-effective interventions on behalf of children and families are those undertaken early in the child's life—even before the child is born. Each dollar spent on early prenatal care, for example, saves $3.38 on intensive care in a hospital neonatal nursery. Douglas W. Nelson is head of the Annie E. Casey Foundation, a child-oriented philanthropy established by James E. Casey, founder of United Parcel Service, in honor of his mother. He says, "Allowing problems to become full-blown is the expensive way to solve them. If we get just a little better at prevention early in a child's life, we can afford to do a lot more of it."

That impressive rate of return doesn't include the biggest dividend—a reduction in the misery of babies like Nicole (as we have chosen to call her), born at Metro Health St. Luke's Medical Center in Cleveland just before dawn on June 5. Nicole's mother, 33, an unwed cocaine addict, had already given birth to two other children—a boy, now 17, and a girl, 3. Both had been removed from their mother's custody. As with her earlier pregnancies, Nicole's mother first saw an obstetrician after her labor pains had begun.

Still, of the 15 or so drug-exposed babies born at St. Luke's each month, Nicole was one of the luckier ones. Since she was delivered at full-term, her near-normal birth weight and fully developed organs made it easier for her to withstand the two weeks of drug withdrawal tremors that wracked her body beginning when she was three days old. Her relative sturdiness also sustained her during ten days of intravenous antibiotic treatments to eradicate any of the treatable sexually transmitted diseases to which she may have been exposed in the womb. When this medical ordeal ended, she was ready to leave the hospital nursery.

But she had nowhere to go. St. Luke's overloaded social worker scrambled to line

up one of the few foster parents specially trained to care for babies like Nicole. By early fall, however, she will have to be placed into a second foster home to free up space for another crack-exposed newborn.

For preschoolers, a most effective childhood intervention effort is the Head Start program. A long-term study of Head Start participants at the Perry Preschool Project of Ypsilanti, Michigan, found that $1 spent on good preschools lowers expenditures for special education, welfare, teen pregnancy, and incarceration of criminals by $6.

The Bush Administration and Congress committed to extend Head Start to all low-income preschoolers by 1994. They still have a long way to go. Last year's appropriation of nearly $2 billion raised outlays 26%, but that was just half the $800 million increase needed. Only 6% of existing Head Start centers are open full days year-round, though 32% of all participating parents—the vast majority of them single mothers—work full time.

What about children who don't get a Head Start? Gregory (not his real name) is one of the 87% of the 10,000 Head Start-eligible children in Minneapolis whom the program does not reach. In 1990 he entered a kindergarten in a mostly minority neighborhood. Though he showed no signs of learning handicaps, Gregory, 5, was unable to identify shapes and colors or speak in complete sentences as most of his classmates could. Because he had never been around other children in a structured setting, sharing and taking turns were alien concepts to him. During mealtimes, Gregory would grab his food and wander off as the other children sat at tables and ate with forks and spoons. At the end of the term, his class was given a test requiring them, among other things, to distinguish the letters of the alphabet. Nearly all the children passed, but to Gregory the alphabet remained a mystery. Gregory is already at risk of dropping out one day.

Recently business and community leaders in several cities, including Minneapolis-St. Paul and Savannah, have begun coordinated efforts to help children like Gregory. In Minneapolis-St. Paul, Honeywell and other major employers, among them General Mills, the Dayton Hudson retail chain, and American Express's IDS investment advisory subsidiary, joined forces with the United Way, city and state government, and organizations serving children and parents to pioneer an innovative early childhood development program called Success By 6. Its aim: to assure that every child enters school healthy and ready to learn. If that sounds familiar, it's because President Bush's first goal in the Administration's "America 2000: An Education Strategy" is strikingly similar: "All children will start school ready to learn."

Success By 6, started in 1988, came first by three years. It aims to knock down barriers that make it difficult for parents and young children to receive nutritional, medical, and counseling services. All the groups involved cooperate to meet the targets of ensuring early prenatal care to every pregnant woman, immunizing all preschool children, and helping young parents develop child-rearing skills that foster early learning and reduce abuse. Corporations in and around the Twin Cities are financing an aggressive communications campaign to convey the importance of children's well-being to the entire community. Success By 6 is now being replicated in 25 other cities.

Taking a broader approach, Savannah launched its Youth Futures program in 1988. Financed initially by a grant from the Annie E. Casey Foundation, the program hopes to reach all the city's at-risk pregnant women and children from birth through high school. How? With one-stop neighborhood family centers that will coordinate the services of 20 state, city, and private agencies. Youth Futures plans to track by computer all the families it helps, periodically evaluating children's health status and educational achievement and offering continued follow-up support. The Casey Foundation has funded similar Youth Futures startups in four other cities.

Of all the risks children face, poverty and the irresponsible parental role models bred by a welfare system that fosters dependency are arguably the most pernicious. Children today are America's poorest citizens. Some 13 million youngsters—two million more than in 1980—live in households whose annual incomes fall below the poverty line. Kids reared by young and single parents are the worst off. A study by the Children's Defense Fund found that 40% of kids whose parents are under the age of 30 are poor—double the proportion since 1973. Three-quarters of the children of single parents will live in poverty during at least part of the crucial first ten years of their lives.

Poverty, along with the violence and hopelessness it breeds, has been the major factor in the staggering rise in the number of children removed from parental custody. In 1990 a record 407,000 minors were placed in foster homes—up 66% just since 1983. While some of the forced separations result from the physical or sexual abuse that grabs tabloid headlines, most stem from parental neglect—or inability—to provide basic food, clothing, or shelter.

A combination of abuse and neglect required Detroit's Department of Social Services and the police to remove a 9-year-old girl we will call Janice and her four siblings from their 32-year-old mother in the middle of the night in 1988. The scene that greeted the cops and the social worker when they arrived at Janice's home—the tenth the family had lived in during her life—was one of five dirty, ill-clad children crowded into a barely furnished apartment.

Confused and terrified, the children were separated into two groups, piled into police squad cars, whisked away. Though the child welfare agency found a caring, seasoned foster parent to take Janice in, she soon rebelled. Like many deprived children who don't know when they might receive their next meal, she hoarded food. She would scream for hours at a time and bridled at the discipline her foster mother imposed in the first structured environment Janice had ever known.

After she falsely accused her foster guardian of abusing her, the authorities were forced to move Janice again—this time to a more closely supervised treatment. home. During weekly visits with a caseworker trained as a therapist, it came out that Janice and another of her sisters had been sexually abused by her mother's boyfriends. Two years into her counseling, Janice is now attending school regularly and getting above-average grades. By summer's end, her caseworker hopes that Janice will be able to be reunited with her mother and other siblings, all of whom have received counseling.

The burdens on the nation's foster care system are now so heavy that frustrated care givers are dropping out. Since the mid-1980s the number of foster parents has declined from 137,000 to 100,000 as demand for placements has swelled.

Straining to keep up, states have begun shifting course: They now try holding troubled families together instead of pulling them apart. In Michigan a new family-preservation effort called Families First relies on intensive intervention by case managers, who work with parents and their children in their homes and are available 24 hours a day over a four- to six-week period. The concept behind the program, says Susan Kelly, its director, is that "the state can never be a good family for children."

The family-preservation approach represents an about-face in how child welfare agencies view their clients. Says Kelly: "We were so busy documenting the family's deficits that we ignored its fundamental strengths." To build on those underlying bonds, caseworkers—who typically help just two or three families at a time over a brief period, vs. the 50 or more drawn-out cases that most social workers must cope with—can use their budgets flexibly for anything from defraying transportation costs for a mother looking for a job to registering a child in a substance-abuse program.

Early evaluations of the program show promise. Over 80% of the 2,400 families who have participated in Families First are still together. In the 18 Michigan counties that have the program, new foster care placements have fallen 10%, compared with a 28% increase in those where the approach has yet to be tried. Families First is also far less expensive than foster care: an average of $4,500 per family, vs. $14,000 for each child placed with a foster parent for a year. If a child ends up in a juvenile detention facility, the state could pay up to $86,000 annually.

The goal of reforming the perverse welfare system should be to preserve and strengthen families. Yet the principal form of public assistance, Aid to Families With Dependent Children (AFDC), is aggressively antifamily. AFDC reaches fewer than 60% of children living below the official poverty level ($10,857 a year for a family of three). It undermines a single parent's incentive to work by withdrawing a dollar of support for each dollar of earnings and discourages welfare mothers from marrying a man who works but doesn't earn very much. In doing so, AFDC deprives children of both sustenance and a socially productive role model.

A bipartisan bill sponsored by Representatives Thomas Downey, a New York Democrat, and Henry Hyde, an Illinois Republican, now in congressional hearings, offers a promising way out of the child poverty trap. The Downey/Hyde bill would change federal tax law to replace the current dependent income tax *exemption* of $2,050 with a refundable $1,000 tax *credit* for all children. This would be much more valuable than the tax exemption for the children of the poor. Trouble is, it would be costly—an estimated $44 billion—and a way to finance it would have to be found.

One unquestionably good part of the bill would step up efforts to identify fathers of illegitimate children and collect child support payments from absent parents. Only 25% of divorced and separated parents who are left with the kids now receive the full amount of court-ordered child support from the absent parent. From all those contributing any support, payments average a meager $52 a week. Children born out of wedlock usually receive nothing from their fathers.

Under Downey/Hyde, the Internal Revenue Service would collect part of the father's income from each paycheck, like the payroll withholding tax for Social Security, and remit it to his children's mother. This would eliminate repeated skirmishes in family court between balking fathers and mothers

demanding that they pay up. Columbia University sociologist Irwin Garfinkel calculates that obligatory parental support could yield single parents with children over $24 billion a year—about four times as much as they currently receive. More important, Garfinkel thinks, the new system would remove some of the welfare stigma by demonstrating to kids that their parents, not the state, are looking after them.

Beyond poverty, the other gaping hole in children's social safety net is inadequate health care. While federal Medicaid coverage will expand to reach every poor child under age 6 by 1994, low-income youngsters from 6 to 18 will not get coverage until the end of the decade. Thus, many children of the working poor and long-term unemployed go unprotected.

Blue Cross of Western Pennsylvania created its Caring Program for Children to provide low-cost health care to 40,000 poor youngsters in its 29-county region who do not qualify for Medicaid and lack private insurance. Included: Clyde Waltenbaugh, 8 who suffers from lupus and another chronic ailment. Launched in 1985 as steel mills shut down, the program enlisted the support of local businesses, churches, civic groups, hospitals, and 12,000 physicians to cover uninsured dependent children from birth to age 19.

Operating as a charitable foundation, the Caring Program solicits individual and corporate contributions of $156 per child. Blue Cross of Western Pennsylvania and Pennsylvania Blue Shield match each contribution and absorb all of the $1.5 million administrative costs. For that, every child gets a year of routine doctor visits, diagnostic tests, immunizations, emergency care, and outpatient surgery. Since its start, the program has reached 19,000 children, and it has expanded to 19 other Blue Cross regions around the country. Eugene J. Barone, Blue Cross of Western Pennsylvania chairman, sees the community's mobilization as one of the Caring Program's biggest successes. Says he: "When people hear about the 12 million uninsured American children, they throw up their hands in despair. But when businesses and citizens set to work tackling the problem in their localities, they can have an enormous impact."

Teenagers, failed by parents, schools, and communities, are perhaps in the most danger. Today some 600,000 feral youth roam the streets of America's cities and towns—long since haven given up on school and putting themselves at risk of crime, drug addiction, and, increasingly, AIDS.

Ronnie Lemieux, 16, was one of them. He was born in a blue-collar neighborhood of Boston, the youngest of three children whose father left when he was 2. For the next ten years the family lived with Ronnie's maternal grandmother, who provided the structure and love that their frequently absent mother could not. But when the grandmother died four years ago, Ronnie and his fragile family had to fend for themselves.

As the Lemieux family wandered from apartment to apartment around Boston, Ronnie would enroll in a new school—eight over the next four years—but never went to class. He would hang out with friends on the streets where their mischief soon turned to drugs and crime. By 14, his daily drill involved buying a 40-ounce bottle of beer for breakfast, scoring some "herb" (marijuana), and downing more beer for lunch. For money, he and his friends broke into homes and mugged an occasional passer-by, but they soon found dealing drugs far more profitable. Ronnie says he would earn several hundred dollars a week selling "angel dust" and cocaine. He bought a 9-mm handgun for protection. After a fistfight with his mother's boyfriend, he left home for good.

By the time Ronnie turned 15, he had seen a close friend killed and had been wounded himself. When, finally, the Massachusetts Department of Social Services caught up with him last winter, even Ronnie knew that his life had become too dangerous to continue unchanged. He was referred to a private local group called Bridge Over Troubled Waters that works with homeless youngsters and was offered a place in its South End "independent living" residence.

During the three months since moving into the Bridge facility, Ronnie has begun putting his life in order. The tightly structured but supportive program requires all its youngsters to attend school and hold a job. Otherwise: eviction. Despite his spotty education, Ronnie has already passed his high school equivalency exam. He works full time at a Cambridge restaurant and is saving money for college. "I'm determined to change," he says. "Nothing they ask me to do is hard because it is what I want."

And if he hadn't found a last chance with Bridge? "I'd have no choice but to go back to selling drugs," he says. "By 18, I'd be dead." For the health of its own civilization, America just cannot afford to let Ronnie fail again.

LOCAL 25, MARINE DIVISION OF THE INTERNATIONAL UNION OF OPERATING ENGINEERS DEDICATES NEW HEADQUARTERS

HON. FRANK PALLONE, JR.

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 12, 1992

Mr. PALLONE. Mr. Speaker, on Saturday, August 22, Local 25, Marine Division, of the International Union of Operating Engineers, will hold the dedication ceremony of its new headquarters in Metuchen, NJ. Saturday's event will also mark the installation of recently elected officers. Perhaps most importantly, it will also provide an opportunity to pay a much-deserved tribute to the Operating Engineers' long-serving leader, Mr. William F. Zenga.

Local 25, Marine Division of the International Union of Operating Engineers represents more than 2,500 highly skilled men and women who operate the dredges, drillboats, tugboats and other specialized marine equipment utilized in harbor improvement, beach reclamation and shore protection projects, as well as the tugboats used in conjunction with a variety of marine construction and general towing work, in a 35-State jurisdictional area. The "Dredgemen's Union" began in 1941 as a branch of IUOE Local 825, when Stephen J. Leslie was assigned by the general president of the Operating Engineers, Joseph Fay, to organize the dredge workers within New York Harbor. The Dredgemen were then known as local 825–D.

Since the membership of the Dredgemen's Union expanded during the 1940's and 1950's, the International Union of Operating Engineers granted the Dredgemen their own Local Union Charter in 1959. Since 1959, the Dredgemen have been known as local 25 and Stephen J. Leslie served as president and business manager of local 25 until 1986. Also in 1959, the Great Lakes Steam Engineers and Rock Drillers became part of local 25 and successful organizing in the previously nonunion Southern States. Local 25's membership was expanded to over 4,500.

Local 25 is unique within the framework of American Labor. Instead of a jurisdictional area confined to a single State or several sparsely populated States. Local 25's has a 35-State jurisdictional area from Brownsville, TX, to the northern border of Maine.

Since 1986, Mr. William F. Zenga has served as business manager of local 25. Since assuming the leadership of local 25, Mr. Zenga has kept pace with the innovations within the marine construction industry and has expanded local representation in areas such as towing services for marine construction, subaqueous cable placement, rock trenching, core drilling and subaqueous hydrocarbon pipelines.

As a Representative of a coastal district, and as a member of the Public Works and Transportation Committee, I have worked closely with Mr. Zenga on a wide variety of issues. He is always a source of great assistance, support and expertise. Mr. Zenga and all of the members of the Operating Engineers have a commitment, which I strongly share, to maintaining the economic vitality of our harbor regions. As a New Jerseyan, I am particularly happy that finally, after 32 years of sharing office space in Brooklyn, local 25 will be dedicating its new home in our State on Saturday.

THE COMMISSION ON INFORMATION TECHNOLOGY AND PAPERWORK REDUCTION

HON. FRANK HORTON

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 12, 1992

Mr. HORTON. Mr. Speaker, one of the highlights of my career was the 2 years I spent as Chairman of the Federal Commission on Paperwork. Created in 1974 in response to public complaints about regulatory paperwork burdens, that Commission issued 36 reports and 770 recommendations to eliminate the much burdensome paperwork regulations imposed on all Americans and businesses.

The need for a paperwork reduction commission in the 1970's was great. The total cost of Federal paperwork was huge. By the mid-1970's, the cost of this paperwork was estimated to exceed $100 billion a year, much of it was necessary, some of it unnecessary. In any case, the cost of this regulatory burden was ultimately imposed on consumers through higher prices and higher taxes, lower productivity and fewer jobs.

There was also psychological costs—the anxiety, frustration, and anger that people experience when dealing with excessive paperwork and red tape.

The Commission also found that needed information sometimes was not being collected, was not reliable, or was not timely. All of which unnecessarily limits the success of Federal programs. In some instances, useless pa-

perwork actually prevents programs from achieving their goals.

The major thrust of the Commission's findings was that Government policymakers should take into account all costs of paperwork, including citizen frustration and administrative inefficiencies, as well as the substantial dollar cost. Information, we argued, should be managed as resource, as we now manage money, personnel, and property.

I am proud to suggest that the work of that Commission resulted in permanent government reforms. The Office of Information and Regulatory Affairs at the Office of Management and Budget was created to provide a check on the Federal Government's appetite to impose paperwork burdens. The work of the Commission also resulted in the enactment of the Paperwork Reduction Act and the elimination of countless forms at the Internal Revenue Service and the Department of Defense.

Unfortunately, while the Paperwork Commission slowed the growth of Federal regulatory paperwork, such burdens did not come to a stop. Federal paperwork burdens still consume an inordinate amount of time from the lives of average Americans and small businesses.

According to the Business Council on the Reduction of Paperwork, the official estimated annual burden as of April 30, 1992, for all currently approved Federal reports is 6.5 billion hours. The Business Council has used government surveys to suggest that this 6.5 billion hour figure is understated by a factor of seven. This suggests that the actual burden associated with completing Federal paperwork is nearly 36 billion hours.

Using the generally accepted figure of 65 percent of that 36 billion hour total as the business sector's share of the burden, it becomes obvious that the Nation's employers are spending a stunning amount of money to meet Federal paperwork requirements.

For that reason, my good friend and Government Operations Committee Chairman JOHN CONYERS, Jr., and I are today introducing Legislation to create another Paperwork Commission. This Commission, however, shall recognize the advancements made in the area of information technology and shall, therefore, be called the Commission on Information Technology and Paperwork Reduction. The need for such a commission today is as great as it was in the 1970's.

I urge all of my colleagues to support this legislation for several reasons. First, the regulatory burden on Americans and small businessess is great. As I have already indicated, it has been estimated that American businesses must spend over $1 trillion to comply with Federal paperwork requirements. It is never too late for the Federal Government to step back and look at the regulatory and paperwork burdens being imposed upon its citizens. This Commission shall look at paperwork burdens and overlapping regulations, and make recommendations to the President and Congress where unnecessary burdens can be eliminated.

Second, this Commission shall look at the recommendations of the 1970's Commission, determine what recommendations have not been implemented, and why, and endorse those recommendations which are still credible.

Most importantly, this new Commission shall look at the information technology developments which have occurred during the past two decades and determine whether the Federal Government is taking advantage of newest technology available to collect, interpret, analyze, and store information.

As we all know, the advancements made in the information technology arena have been great during the past 20 years. The Commission's chief task will be to investigate ways that today's electronic technology can be used to reduce the amount of paperwork produced or required by Government agencies.

We are now using technology that was not even thought of in the 1970's. From electronic funds transfer to electronically filed tax returns, these save paperwork and should be encouraged.

Finally, it is also my hope that this Commission will take a hard look at the ongoing debate over Presidential regulatory review. Although the President has a constitutional obligation to ensure that the Federal Government is effectively managed, critics of Presidential regulatory review have argued that the President has used such organizations as the Council on Competitiveness to undercut legislative intent when drafting regulations.

The forum for this debate however should not be the politically charged floor of the House during this election year. Let a Commission, appointed by Congress and the next President, debate the appropriate role for regulatory review in our constitutional system.

As the former Chairman of the Commission on Federal Paperwork, I strongly believe that the time to revisit the issue of regulatory paperwork burdens is today. I encourage all Members to lend their support to this effort.

A BILL TO ESTABLISH A COMMISSION ON INFORMATION TECHNOLOGY AND PAPERWORK REDUCTION—SUMMARY OF PROVISIONS

FINDINGS AND PURPOSE

This section finds that federal information reporting requirements continue to place an unprecedented paperwork burden upon all Americans. This makes it necessary to reexamine policies and procedures which have an impact on the paperwork burden placed on all Americans.

This section also reestablishes the policy of the Federal Government to minimize the information reporting burden.

FUNCTIONS

It shall be the function of the Commission to:

(a) Review the findings of the 1970's Commission on Federal Paperwork to determine which of its recommendations have been implemented and which recommendations still warrant further consideration.

(b) Study and investigate federal statutes and policies relating to information gathering, processing, and dissemination, and the management and control of these information activities.

(c) Recommend changes to federal statutes and policies to reduce the duplication of information collected, minimize the burden imposed by Federal reporting requirements, and reduce the costs of federal paperwork.

Upon submission of the Commission's final report, the Director of the Office of Management and Budget (OMB) shall:

(a) Formulate the views of the Executive agencies on the recommendations.

(b) Implement those recommendations to the extent practicable.

(c) Propose legislation needed to implement recommendations requiring statutory authority.

MEMBERSHIP

The Commission shall be composed of 19 members, as follows:

(a) Two Members of the Senate, not of the same political party.

(b) Two Members of the House of Representatives, not of the same political party.

(c) Two local government officials.

(d) Comptroller General of the United States.

(e) Director of OMB, Secretary of Treasury, and one other Executive Branch official appointed by the President.

(f) Nine private sector members appointed by the President.

EFFECTIVE AND EXPIRATION DATE

The effective date shall be January 21, 1993, so as to allow the President elected in November, 1992 to select Commission members. The Commission expires two years following its first meeting.

TRIBUTE TO COMMEMORATE THE FIRST ANNIVERSARY OF UKRAINIAN INDEPENDENCE

HON. DAVID E. BONIOR

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 12, 1992

Mr. BONIOR. Mr. Speaker, I rise today to announce the observance of the first anniversary of Ukrainian independence at the Ukrainian Cultural Center in Warren, MI. On Monday, August 24, the center is hosting a commemorative banquet to celebrate the Ukrainian parliamentary proclamation of independence.

Throughout the world, the establishment or restoration of liberty is always a cause for celebration. And, there is good reason for this. Liberty, not only fosters prosperity, it also instills a deep sense of pride—pride in the knowledge that we control our own destiny.

I am confident that the independence of Ukraine will rejuvenate the proud spirit of the Ukrainian people. The struggle was long, yet the people of Ukraine have accomplished the first step in becoming a free and prosperous nation.

It is no surprise that Ukrainians in Michigan are celebrating this proclamation of independence. Michigan is home to the third largest Ukrainian community in the United States. With so many friends and relatives remaining in the ancestral homeland we are particularly pleased that Ukraine is independent. The natural ties that exist will inevitably prove to be beneficial both to Ukrainians and Americans.

It is evident that the Government of Ukraine also places much importance on its relationship with the people of Michigan. This is demonstrated by the fact that Hon. Victor Kryzhanivsky will be attending this banquet. Mr. Kryzhanivsky serves as the Deputy Permanent Representative of the Permanent Mission of Ukraine to the United Nations. As the second highest ranking Ukrainian diplomat at the United Nations, he will deliver the keynote address. We are very pleased to have him as our guest.

The historic first anniversary is a true cause for celebration. I commend the committee for

the Observance of Ukrainian Independence Day of Metropolitan Detroit, the Ukrainian Congress Committee of America, the Ukrainian America Coordinating Council, and the members of the Ukrainian Cultural Center for organizing and hosting this commemorative and cultural program. I am truly looking forward to the event.

A SPECIAL TRIBUTE TO HERBERT CORNELIUS KENNY

HON. LOUIS STOKES

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 12, 1992

Mr. STOKES. Mr. Speaker, I am saddened to inform my colleagues of the recent passing of Herbert Cornelius Kenny. A singer and former Washington radio announcer, Mr. Kenny died at his home in Columbia, MD, on July 11, 1992.

Mr. Kenny was a member of the original Ink Spots singing group. He joined the Ink Spots in 1944 and remained with the group until their breakup in 1952. The Ink Spots were among the first black singing groups to reach a broad audience with their recordings which included such hits as "Gypsy" and "To Each His Own."

After the Ink Spots split, Herbert Kenny continued to entertain audiences with his singing, making solo appearances at several hotels and clubs in the Washington and Baltimore areas. In 1958, he was hired as a disc jockey at Washington's WUST radio station and later worked as a deejay for station WMAL and as the program director at station WHMD.

Mr. Speaker, over the years, I have had the privilege of working with Herb Kenny's talented wife, Mrs. Minnie Kenny, of Columbia, MD. I extend my deepest sympathy to his lovely wife, his two children; Daphne Jackson of Millburn, NJ and Paul Morris of Baltimore, MD, and his seven grandchildren on the loss of this wonderful and talented man.

ROCK CREEK TENNIS STADIUM BILL

HON. BRUCE F. VENTO

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 12, 1992

Mr. VENTO. Mr. Speaker, today I am introducing a bill that directs the transfer of a tennis stadium built on National Park Service land to the District of Columbia and contains a prohibition on inappropriate commercial activities on national park lands throughout the country.

The Rock Creek Tennis Stadium, which is located within Rock Creek Park in Washington, DC, has developed numerous serious operational and promotional activities that are not compatible with the National Park Service mission and which are objected to by local residents who have lacked input into the administration and operation of events at this stadium. The stadium's presence has caused considerable and sharp concerns in the community and has seriously compromised National Park Service management of the immediate area. To further complicate the situation, the Department of the Interior, in a misguided attempt to allow additional activities at the tennis stadium, has now promulgated an unprecedented special rule for Rock Creek Park that allows commercial advertising there. Such a regulation has implications for the entire national park system. As chairman of the Subcommittee on National Parks and Public Lands, I do not condone such violations of the very spirit of our Nation's national parks. Parks are to be retreats from commercialism, not allowed to become the bastions of commercialism. The recent tennis tournament at the stadium included Infiniti automobiles on display, gambling for prizes and assorted samples and signups, including one for a "Four Day/Three Night Fantasy Bahamas Cruise". Such a country club carnival atmosphere has no place in a national park.

The measure I am introducing has three major parts: First, the transfer of the tennis stadium to the District of Columbia; second, a restriction on commercialism in national parks; and third, a clarification on the organized activities and special events allowed on national park lands.

This legislation will give the District of Columbia control over this essentially local recreation resource and will provide benefits to the residents of the City of Washington, DC, through its continued use as an appropriately local recreational facility. It will also give the National Park Service a better ability to manage its lands, free of inappropriate commercial intrusions, and give it more control over the myriad activities held on national park lands. I do not believe that these national park lands should be so sacrosanct that nobody can picnic, run, cross-country ski, or otherwise recreate on them. At the same time, organized activities and special events held on park lands must be appropriate to a national park and not harmful to its enjoyment and resources. This bill will further that very basic and founding principle of the national park system.

CLARIFICATION REGARDING THE SENIOR EXECUTIVE SERVICE IMPROVEMENTS ACT OF 1991

HON. GERRY SIKORSKI

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 12, 1992

Mr. SIKORSKI. Mr. Speaker, it has recently come to my attention that there is a question over the implementation of Public Law 102–175, the Senior Executive Service Improvements Act of 1991. Today, I would like to submit for the record, a letter that Mrs. Marella and I, as authors of the legislation, sent to the U.S. Office of Personnel Management regarding the Post Office and Civil Service Committee's intent in enacting section 3 of H.R. 2270, regarding a limitation on a Federal agency's authority to reassign senior executives.

COMMITTEE ON POST OFFICE AND CIVIL SERVICE,
Washington, DC. April 9, 1992.

Hon. CONSTANCE B. NEWMAN,
Director, U.S. Office of Personnel Management
Washington, DC.

DEAR DIRECTOR NEWMAN: We are writing in regard to H.R. 2270, the Senior Executive Service Improvements Act of 1991, which was signed into law in November of last year. We would like to set forth the Committee's intent in enacting Section of H.R. 2270, regarding a limitation on an agency's authority to reassign Senior Executives.

The purpose of including Section 3 in the bill was to protect SES career employees from the arbitrary termination of the 120 day get acquainted period required by title 5, United States Code Section 3396 (e)(1) by new non-career supervisors. This termination was accomplished by "detailing" the career employee during the get acquainted period to another position, in effect denying the career executive the opportunity to prove him/herself in his/her present position to the new non-career supervisor and/or the new agency head.

As Representative Sikorski said in his floor statement during passage of the bill, the legislation placed limitations on the ability of a non-career supervisor to detail a career Senior Executive during the statutory 120-day get acquainted period. We sponsored H.R. 2270 in response to the complaints the Subcommittee received from SES employees who had not been given the benefit of the get-acquainted period. Section 3 was drafted to protect SES employees who were being denied the required 120 days by details, since we believed that if an employee could be detailed without restriction during that 120 day period, the purpose of the statute was being violated.

As you know, OPM insisted that a parenthetical phrase, "not to exceed a total of 60 days" be inserted in Section 3 before H.R. 2270 was enacted. We agreed to the language with the understanding that it set a 60 day limit on the length of any detail taking place during the 120 day get-acquainted period. In other words, even if the SES employee is detailed for a period of 60 days during the 120 day period, the employee will still work under the non-career supervisor for a full 120 days. The detail would merely suspend the 120 day period by the time of the detail, which cannot exceed 60 days. This provision is intended to ensure that career executives have the full statutory 120 days get-acquainted period to prove themselves.

Please send the Subcommittee a copy of any guidance OPM has distributed to agencies interpreting this language. Thank you for your assistance in this matter.

Sincerely,

CONSTANCE MORELLA,
Ranking, Member.
GERRY SIKORSKI,
Chairman.

CREDIT CARD MAIL THEFT PROTECTION ACT

HON. THOMAS J. MANTON

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 12, 1992

Mr. MANTON. Mr. Speaker, I rise today to introduce the Credit Card Mail Theft Protection Act. This legislation would prohibit the unauthorized use of credit cards and provide stricter penalties for the theft of credit cards and other mail from Postal Service facilities.

Recently, US Postal Service officials have been fighting a battle with thieves who are stealing mail at an alarming rate. The rise in thefts is predominantly due to the high volume of credit cards being sent through the mail.

Thieves steal the credit cards from Postal Service vehicles, carriers, relay boxes, street collection boxes, residential mail boxes, and offices costing consumers and businesses hundreds of thousands of dollars annually. This problem has become particularly acute in my congressional district where an increasing number of Postal Service relay boxes are being broken into. Although current enforcement efforts, such as tamper proof locks on relay boxes, have helped combat thefts, new Federal legislation is necessary to assure an end to this serious problem. The Credit Card Mail Theft Protection Act is designed to accomplish this goal.

The bill I am introducing today calls on the Federal Reserve Board, in consultation with the Federal Deposit Insurance Corporation and the Federal Trade Commission, to issue regulations which will result in discouraging the theft of credit cards from Postal Service facilities. At a minimum, the regulations would require card issuers to mail credit cards inactive if mailing to, through, or from a high-risk crime area. In order to activate the card, card holders would have to contact issuers of the card verifying they received the card by way of a personal identification number [P.I.N.]. This action would render all cards useless to thieves, eliminating their ability to reap criminal profits and, therefore, their incentive to steal the credit cards.

In addition, the legislation would allow some card issuers to be exempt from complying with the "inactive status" method provided they developed another approved procedure which guaranteed that rightful owners received their credit cards.

The Fed, FDIC and FTC will also be responsible for prescribing standards for determining high-risk areas in consultation with the Postmaster General.

Not only will this piece of legislation deter thieves from tampering with the U.S. Mail System, but the bill will also increase the penalties for those who continue to steal mail and use stolen credit cards. Specifically, the act stiffens the punishment for committing credit card fraud, for destroying credit cards in the mail, for stealing or receiving stolen credit cards, and for Postal Service employees or officers who steal credit cards. It is essential that those committing these serious crimes be subject to serious consequences in order to end this rash of mail robbery and credit card fraud.

Finally, the bill requires the Board and the Postmaster General to each conduct studies determining the extent of the credit card theft problem and submit reports to Congress describing their findings and recommending any additional steps they feel necessary.

Mr. Speaker, the American people are fed up with crime. My constituents are outraged that even their mail is not safe from criminals looking to steal a credit card and ripoff banks and retail merchants. These lawbreakers must be stopped. The Credit Card Mail Theft Protection Act represents our opportunity to take action. We must join together and pass this important legislation designed to stop these crimes, impose tough new penalties on credit card thieves, and save consumers and businesses hundreds of thousands of dollars annually.

ITW HI-CONE ANNOUNCES PILOT RECYCLING PLAN

HON. HENRY J. HYDE

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 12, 1992

Mr. HYDE. Mr. Speaker, permit me to share with my colleagues a unique and important environmental success story.

The consequences of improper disposal of plastic products on wildlife is becoming better understood. Of particular concern is the waste trail created by plastic six-pack rings used to package popular canned beverages. Although small in size and seemingly innocuous, these plastic rings are particularly difficult to dispose of, and reportedly dangerous to many species of wildlife.

In an important step to ease the waste problem, ITW Hi-Cone, designer and world's largest manufacturer of the plastic six-pack rings, has announced a major recycling effort in tandem with the State of Illinois.

Students in schools across the State and visitors at Illinois State parks will now have an opportunity to recycle the plastic rings in designated receptacles while making a contribution to the Illinois Heritage Endowment Trust Fund.

Through a partnership between the Illinois Department of Conservation and ITW Hi-Cone, the trust fund receives 8 cents for every pound of six-pack rings returned to the company for recycling from anywhere in Illinois.

In 1992, the company expects to recycle more than 100 tons of the plastic rings, 20 percent in Illinois alone.

The trust fund, created by the State legislature in 1987, will provide the department of conservation a stable source of supplemental moneys to support the State's natural heritage. ITW Hi-Cone, headquartered in Itasca, Illinois, is a division of Illinois Tool Works, Inc.

In the years ahead, ITW Hi-Cone will exclusively manufacture versions of the rings that will decompose when exposed to sunlight, and include a tear tab feature on the rings that will make them more wildlife friendly.

The Illinois program is a pilot program. If it works as expected, ITW Hi-Cone is prepared to launch a national program similar to the Illinois experiment. I share this success story with my colleagues as evidence that public/private cooperation can improve the quality of life for us, and the wildlife with which we share our world.

OFFSET PAPERBACK RECOGNIZED FOR 20 YEARS OF PUBLISHING

HON. PAUL E. KANJORSKI

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 12, 1992

Mr. KANJORSKI. Mr. Speaker, I am pleased to recognize today a remarkable company located in Dallas, PA.

Offset Paperback Manufacturers, Inc. celebrated its 20th anniversary this past May. However, its history reaches back to 1907, when Russian immigrants founded Universal Printers in Canada. The company relocated to Phoenix, AZ in 1965, trading as Valley Paperback.

Four years later, the company moved east to be closer to the heart of the industry, this time settling in its present home in my district. In 1972, Saul and Abe Simkin purchased Valley Paperback, changing its name to Offset Paperback. The growth of the company can best be judged by the increase in its employees from 120 in 1972 to 636 today. Offset's clientele includes eight major publishing houses in New York and boasts more than 150 customers.

In 1980, Bertelsmann AG of Gutersloh, Germany, bought an interest in Offset Paperback and, until 1987, worked with Abe Simkin on setting a course for growth through technology. In 1987, Bertelsmann became full owners of the company.

Through the efforts of Saul Simkin and his cousin, Abe, a small printing company became the foundation for what is, today an economic leader in northeastern Pennsylvania. By purchasing Delta Lithograph Co. in Van Nuys, CA, Offset now operates on both coasts. Under the capable leadership of its president, Michael J. Gallagher, Offset Paperback Manufacturers continues to prosper and provide employment opportunity for area residents.

Offset Paperback's history and growth over the past 20 years are an shining example of the strength of America's small businesses. I congratulate Offset Paperback Manufacturers on 20 years of success and wish them continued prosperity.

TRIBUTE TO REGINA MARSHALL

HON. DONALD M. PAYNE

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 12, 1992

Mr. PAYNE of New Jersey. Mr. Speaker, I would like my colleagues here in the U.S. House of Representatives to join me in honoring a very special person who has made great contributions to her community, Ms. Regina Marshall.

Ms. Marshall, who has had a distinguished career in the field of education, is leaving her present position to pursue a Ph.D. at New York University. She holds a master of arts degree in early childhood studies from Kean College.

Since 1988, Ms. Marshall has served as a member of the Newark Education Council. Prior to that, she was associate executive director of YWCA of Essex and West Hudson counties. She has served as project director of Newark Family Resource Center and executive director of Chen School. In addition, she worked as head teacher at Babyland Nursery.

She was a student member of the American Psychological Association, and president of the Invington Board of Education form 1990 to 1991.

I am proud to have Ms. Marshall as a member of my Child Care Advisory Task Force. She is enthusiastic about the child care issue and always has good ideas and suggestions to put forth.

She has served treasurer of the League of Women Voters since 1988 and serves on the

board of the READY Foundation. She has served as president of the Protestant Community Center/Friendly Neighborhood Center.

Mr. Speaker, Ms. Marshall is an outstanding person and a well-respected professional who is using her many talents to help others achieve their goals. Ms. Marshall will be honored by her many friends at an event on Thursday, August 13. Please join me in wishing here all the best as she goes on to another major achievement in her life. She serves as a wonderful role model for young women, and I know that she will continue to excel in all her endeavors.

OPPOSE IRA EXPANSIONS

HON. DONALD J. PEASE

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 12, 1992

Mr. PEASE. Mr. Speaker, yesterday the other body took up debate on its $31 billion tax bill, with Super IRAs as its centerpiece. As the Washington Post noted, this bill is a top contender for the worst bill of the year award.

The expansion of IRAs is simply a bad idea. It would confer nearly all of its benefit on upper-income Americans. There is no credible evidence that it would improve net U.S. savings levels, and it would cost the Federal Government billions of dollars of lost revenue outside the 5-year budget window.

Bad as Super-IRAs are, it would be a travesty to make them the centerpiece of an urban aid package. By no stretch of logic will it help our distressed cities to grant super generous tax breaks to well-off Americans, no matter where they live.

Look beyond the vested interests which pay for those full-page ads in roll call supporting IRA expansions. Recall the embarrassment of congress a dozen years ago when we got stampeded into "All-Savers Certificates." Oppose Super-IRAs.

JAPANESE STUDENTS TO VISIT CONGRESSIONAL DISTRICT

HON. ALAN WHEAT

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 12, 1992

Mr. WHEAT. Mr. Speaker, I would like to take this opportunity to welcome a group of 32 Japanese students who will visit my congressional district later this month.

Sponsored by Kansas City New Experiences and Relationships [KC NEAR], these students are traveling across the country, living with host families and gaining a truly first-hand insight into American life.

In the process, each of these students will have the opportunity to share their own cultures and unique perspectives with all of the Americans they encounter during their stay.

I commend KC NEAR for fostering understanding and promoting good will between the citizens of the United States and Japan, and I wish each of the following students an enjoyable and enriching stay in Kansas City and the many other regions of the country they will visit:

Isobe, Hitomi; Kobayashi, Eiko; Manabe, Yuki; Michiue, Tomomi; Mihara, Nobulake; Miura, Yukiko; Miwa, Akiko; Mori, Kazuaki; and Morita, Harumi.

Moritera, Rie; Moriya, Yasushi; Nakae, Tomoyuki; Tokutake, Shihoko; Watanabe, Kanako; Yamada, Mariko; Yamakawa, Yoshihi; Yamamoto, Junko; Yamamoto, Mahiko; and Yasui, Chihiro.

Yoshida, Tomoka; Yoshiyasu, Mie; Yuasa, Michiko; Ito, Naoko; Miyajima, Yukie; Mizutani, Sachiko; Morita, Yuka; Nohara, Fumiyo; Seo, Hayami; Takeuchi, Kuniko; Takeuchi, Yuko; Watanabe, Misaki; and Yoshimura, Kaori.

NATIONAL DRUG POLICY HAS IT BACKWARD

HON. FORTNEY PETE STARK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 12, 1992

Mr. STARK. Mr. Speaker, Our national anti-drug policy is flawed.

For more than a decade, the policy coming from the other end of Pennsylvania Avenue has been to fight the drug war by focusing on supply-side strategies, particularly interdiction, eradication, and enforcement. Still, many contend—and the data support the claims—that the availability of illicit drugs has remained constant while increasingly violent crimes terrorize our neighborhood streets all across America.

Simply put, we are spending more of our money in the wrong places, and not enough in the right places.

Last year, the Federal Government spent nearly $12 billion to fight our drug war. But did the taxpayers get their best bang for the buck? Probably not. I thing U.S. drug policy would pay bigger dividends if we channeled more resources into the demand-side solutions of drug education, treatment and rehabilitation, and prevention.

The Council on Hemispheric Affairs recent report on the status of our drug war raises some interesting points and makes some helpful suggestions to policymakers. The report was authored by researchers Amy Horng and Alan Yanovich. I recommend it to my colleagues:

U.S. DRUG POLICY NEEDS URGENT OVERHAUL—DRUG WAR MUST FOCUS ON CURBING DEMAND

(By Amy Horng and Alan Yanovich)

Although the U.S. government is waging a drug war with a budget that has doubled to $12 billion since President Bush took office, narcotics continue to plague this country. Heightened attacks upon drug production facilities in foreign countries have had little impact upon its availability in the U.S.. Billions of dollars spent on law enforcement have not made drugs harder to get, have not decreased drug-related violence here and abroad, and above all, have not attacked the fundamental problem of demand. So long as the domestic market for drugs remains high, supply will never falter. Meanwhile, only a fraction of the annual U.S. drug budget goes to prevention, education and treatment programs—which should be the payoff zone of a rational U.S. anti-drug strategy.

PRESENT POLICY AN UTTER FAILURE

Even though approximately $21 billion of the $30 billion allocated since 1990 to the federal government for its drug battle has been spent on supply reduction efforts in this country, narcotics are no harder to get today than they were three years ago: In fact, Americans consumed more than $17 billion dollars worth of drugs last year. Two-thirds of the current U.S. drug budget, a ratio adopted from the Reagan Administration's anti-drug strategy, is being lavished on law enforcement, which has ineffectively coped with an ever-increasing drug supply. Even Pentagon participation, bolstered by a $1.2 billion budget line for 1992, largely has been futile, as the General Accounting Office concluded when it stated last September that approximately $2 billion worth of Pentagon detection and monitoring over the last two years has had little positive impact on reducing drug supply.

As aerial drug surveillance missions multiply over the Caribbean basin and the Andean nations, so does coca leaf production throughout the region. Worldwide net coca leaf production increased from 291,100 metric tons in 1987 to an estimated 337,100 metric tons in 1992, foreshadowing a growing supply of processed cocaine on the market in the near future. The European community, citing a rise in the number of new production facilities in Brazil, Venezuela and Central America, believes that as much as 1100 metric tons of pure cocaine were produced in 1991. Even the White House, perhaps optimistically, has acknowledged the worldwide cocaine production last year had reached 900 metric tons, almost double the amount estimated to have been produced in 1988. Simply put, the billions of dollars spent yearly on law enforcement and interdiction efforts, both within the U.S. and in the drug-producing regions, have failed to halt the flood of cocaine reaching the United States.

Another point to consider in evaluating the relative lack of success of the supply-side anti-narcotics approach, is its devastating effect on the frail democracies of the Andean region where the crop is grown and processed. Since President Bush announced the five-year Andean Initiative in September 1989, Washington has been pumping more than $2 billion dollars in military and law enforcement assistance into Peru, Bolivia and Colombia. White House pressure on the governments of these countries to escalate and to militarize the war on drugs already has led to the "dirty war" in Colombia that has been characterized by indiscriminate bombings of civilian targets by the drug lords, with 300 security forces shot dead in the Medellin area alone in less than a year, and murder rates of upward of 25,000 per year. In Peru, it indirectly has persuaded large numbers of the poor to join the cadres of the Sendero Luminoso, thereby intensifying the guerrilla conflict in that country. U.S. pressures on Bolivia have contributed to a worsening of the living conditions of peasants and their alienation from the Paz Zamora government.

A NEW DIRECTION FOR U.S. POLICY

Given Washington's failed efforts to make significant inroads into the availability of drugs, U.S. policy would do well to begin to emphasize the reduction of demand. It is ironic that President Bush has failed to understand the importance of the modest success his own underfunded policies on drug education and treatment slowly have had in reducing demand, particularly since this is the only phase of his strategy that is able to report positive results. Had he understood

this, he would have taken more effort to thrust this phase into the fore of his anti-drug program. There are indications that drug education—surviving on a meager pittance of only $713.4 million for 1991—nevertheless has helped to lower consumption, as drug use gradually has been, at least until recently, on a decline. According to a federal survey cited by Joseph B. Treaster in the New York Times, cocaine use decreased significantly from 12.2 million occasional users in 1985 to 6.2 million in 1990, but unfortunately rose by an additional 0.2 million in 1991. Such dismaying recent trends are sufficiently alarming to justify, on an urgent basis, the allocation of much greater funds for drug treatment and rehabilitation efforts, which combined, received only $1.9 million last year.

Taking into consideration that drug supply has continued to expand recently—despite an $8 billion budget in 1992 for law enforcement and the criminal justice system—while drug demand has shown some decline, it is surprising that the White House has not concluded that it's time to tip the balance in favor of the demand factor by redressing the 70–30 budget ratio which presently favors supply reduction. If the drug war is ever going to be won, it must be fought here, on our own turf. The drug scourge must be confronted in neighborhoods throughout the U.S. and other rich drug-consuming nations, but must be fought with a different type of ammunition than that currently relied upon by the Administration. Education and treatment should be the cures of choice in dealing with drug consumption, leading this country to spend far more on cutting demand and relatively less on fighting supply. Once demand ceases, those who peddle the illegal substance, like Pablo Escobar, may be inclined to go into early retirement.

COMMENDING JUDITH HARGIS, WINNER OF THE PATHFINDER AWARD

HON. SID MORRISON

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 12, 1992

Mr. MORRISON. Mr. Speaker, I would like to take this opportunity to personally congratulate Judith Hargis, a nurse with the Yakima Health District, who was one of 14 Americans who earned the Pathfinders Award for her leadership, achievements, and dedication to the national fight against HIV infection and AIDS.

Many celebrities have been recognized for their work in this field, but thousands of citizens like Judy Hargis have gone to extraordinary lengths to help family, friends, and the community accept the challenge and the reality of the HIV virus.

Judy deserves our collective praise for her untiring efforts. Among her many activities she has worked within our local prisons with intravenous drug users; founded Carebearers, a volunteer support group that provides companionship and services to people with AIDS; and created the New Hope Clinic, bringing together health care professionals as volunteers.

Judith Hargis is truly making a difference in the Yakima Valley, and I wholeheartedly salute her and the other winners of the Pathfinder awards.

TRIBUTE TO NOVA PRIVATE INDUSTRY COUNCIL JOB TRAINING PROGRAM

HON. NORMAN Y. MINETA

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 12, 1992

Mr. MINETA. Mr. Speaker, I am honored to take this opportunity today to recognize the NOVA Private Industry Council Job Training Program administered by the city of Sunnyvale, CA, which was selected earlier this year by the Department of Labor for its Presidential Award as an exemplary training program. In particular, the new Skills Testing, Assessment, and Reemployment Center—the STAR Center—has distinguished itself with its superb case management strategy.

Workers in the front lines fuel this Nation's economy. The flexibility, innovation, productivity, and commitment to quality are paramount as American businesses compete.

The Job Training Partnership Act, which has made programs such as these a possibility, represents the recognition by Congress that people, not machines, determine our Nation's economic strength.

When Congress created the JTPA in 1982, we included a new program that authorized training for dislocated skilled workers permanently displaced from their jobs.

This aspect has become increasingly important as the character of the workplace in the United States has changed.

The wisdom of the JTPA in its delegation of management responsibilities to the States and localities where it is possible to deal with the changing character of the workplace.

This approach is extremely important in northern California, where the workplace is continually evolving. We face very specific problems that are addressed by STAR services.

In Silicon Valley, the high specialization of industries call for highly specialized employees.

Unfortunately, there is a quick turnover of industries themselves that correlates with the short lifetimes of products as technology advancements occur at lightning speed. As a result, jobs become outdated and highly specific employees are left behind.

The declining number of new workers entering the labor market each year severely limit the labor pool available to employers.

Innovative programs such as NOVA's STAR services demonstrate that in Silicon Valley and around the Nation we have the imagination to meet the challenges that will be presented by the increasingly technical and specialized workplace, and our changing work force.

Federal programs like the JTPA ensure that we will have the resources to keep this partnership working.

TRIBUTE TO THE PETERBOROUGH ADOPT-A-MILE PROGRAM

HON. DICK SWETT

OF NEW HAMPSHIRE

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 12, 1992

Mr. SWETT. Mr. Speaker, I rise today to ask my colleagues to join me in applauding the efforts and achievement of the town of Peterborough, NH. Through the dedicated work of local volunteers, this community has managed to keep their streets litter-free. Based upon a program already utilized in various communities across the country, Town Administrator John Isham took the initiative to establish the Adopt-A-Mile Program of Peterborough.

Each individual or group that volunteers in essence adopts a strip of roadway and then becomes responsible for keeping it clean. The town, in turn, provides signs with the name of each volunteer, marking their stretch of road. In the first year alone, over 30 groups participated in the program, including the Girl Scouts, senior citizens, and area businesses. To date, an impressive 75 percent of all the town's roadways are covered, and it is believed that the program will now grow even greater.

The continuing commitment of these concerned people, not only to their community, but also to the environment, warrants our heartfelt gratitude. A special dedication is required to maintain these litter-free roads, as this is not merely a one-time effort. From the beginning of April, through the summer and to the first heavy snowfall, these devoted citizens are striving to better their neighborhood.

Mr. Speaker, it is community involvement of this kind that our country relies upon for its strength and beauty, and it is through the efforts of people, like those in Peterborough, NH, that we earn respect as a nation.

THE INTRODUCTION OF THE DISTRICT OF COLUMBIA NOTIFICATION ACT

HON. ELEANOR HOLMES NORTON

OF THE DISTRICT OF COLUMBIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 12, 1992

Ms. NORTON. Mr. Speaker, I am introducing legislation that will have a positive effect on D.C. residents with the added bonus that it is as likely to benefit the Federal Government as the residents of the District of Columbia. My bill requires consultation and advice that will alleviate avoidable tension when the Federal Government takes action that impinges on District neighborhoods by substantially altering the physical environment or by a change from local to Federal ownership or leasing.

This bill requires that Federal agencies give prior notice to the Mayor of the District of Columbia, chair of the city council, and chair of the appropriate advisory neighborhood commission. Such notice must be received at least 60 days before the activity is to be carried out. An exception is possible in cases where the government certifies that emergency conditions exist.

This measure is warranted in the light of recent experience. Federal agencies sometimes have moved into local communities without regard for their residential character or local zoning requirements. Unnecessary disputes involving issues that in many cases could easily have been resolved with the opportunity to consult have resulted. Often there has been no objection to a facility or a change, and suggestions that would actually benefit the government have had no structured process for presentation. Needless community resentment as well as delays to the government then result. Fairness to the community and an opportunity for the government to benefit from constructive suggestions require more than the wasteful hit-and-miss approach that is all that is now available.

We have no desire for veto power over Federal facilities, and, of course, none would be possible. When community consultation has been sought, however, we have seen clear benefits to the government from suggestions from those who know this community best. Concerns can be addressed and tension between the community and the Federal Government eliminated.

My bill provides the opportunity for rational problem solving between two jurisdictions that benefit from living together. Far from objecting to the Federal presence, the residents of the District welcome it and understand that the Federal Government is the very basis of our upscale economy. Neighbors get along best when they talk things out ahead of time rather than fighting them out after the fact.

The modest 60-day notice period my bill provides is a courtesy that residents should be entitled to when the Federal Government moves beyond its core area. My bill is designed to facilitate governmental action without tension and with respect to all concerned.

TIMBER SALVAGE CALIFORNIA: A NATIONAL EMERGENCY

HON. RICHARD H. LEHMAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 12, 1992

Mr. LEHMAN of California. Mr. Speaker, the result of a 6-year drought in California has now led to a severe forest death on our forests lands. In some cases nearly one-third of the forests are dying or are dead from lack of water and the subsequent infestation of beetles. Experts have warned that these forests are on the brink of a tragic catastrophic fire.

Today, I call upon the President to provide the leadership to prevent a devastating fire in our national forests in California and at the same time help a dwindling timber industry. He can accomplish this by signing an emergency declaration which would permit an expedited salvage and thinning operation for forest lands managed by the Federal Government.

State and Federal forestry authorities agree that a prompt and environmentally sensitive forest salvage operation will help reduce the threat of a major fire. Although the U.S. Forest Service has attempted to expedite some salvage operations, the efforts are simply not keeping pace with the rate of destruction of the resource.

Again, Mr. President, please sign the emergency declaration and save our forests.

DEDICATION OF THE INSTRUMENT LANDING SYSTEM AT ST. CLAIR COUNTY INTERNATIONAL AIRPORT

HON. DAVID E. BONIOR

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 12, 1992

Mr. BONIOR. Mr. Speaker, the people of St. Clair County know that today we are faced with what is no longer a relatively simple matter of driving to the next town to sell our products. Our market is now further down the road and, in some cases, overseas.

It is with great pleasure that I will be joining with the St. Clair County officials in dedicating the new Instrument Landing System [I.L.S.] at the St. Clair County International Airport on August 27, 1992.

The I.L.S. sends radio signals to assist landings when weather conditions cause low visibility. By allowing the county airport to provide service to aircraft in a broader range of weather conditions, the I.L.S. will help bring business and investment to the area. Moreover, the system will allow St. Clair County to better establish its place in regional, national, and international markets.

I am proud to have played a role in obtaining the I.L.S. But this important project would not have been possible without the help of Mary Mechtenberg and CARL LEVIN. I am also pleased that funding has been secured for maintenance of the system to relieve the county of this significant burden.

Air transportation represents a key transportation link for the future of economic development. With the addition of the I.L.S., St. Clair County Airport promises to be a major force driving economic growth in St. Clair County.

INTRODUCTION OF FILIPINO VETERANS EQUITY ACT OF 1992

HON. NORMAN Y. MINETA

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 12, 1992

Mr. MINETA. Mr. Speaker, I am proud to join today with my distinguished colleague from California, Ms. PELOSI, in introducing the Filipino Veterans Equity Act of 1992.

As you know, Mr. Speaker, the 1990 Immigration Act at long last recognized the right of Filipino veterans of the U.S. military during World War II to apply for U.S. citizenship.

Since the enactment of the 1990 legislation, however, severe problems have arisen with its implementation.

Most notably, the Immigration and Naturalization Service [INS] delayed implementation for more than 1½ years, and did not begin the necessary interviews until October of last year.

As a result, only 21 percent of eligible Filipino veterans have made applications. Because this provision will expire in November of this year, an extension is clearly needed.

In addition, the requirement that Filipino veterans travel to the United States in order to be sworn in as citizens has proven terribly costly and burdensome—and not only to the Filipino veterans themselves.

These individuals are senior citizens, and while they are now allowed to claim U.S. citizenship, their children and grandchildren are unable to join them here quickly.

As a result, social services agencies are being overburdened by the needs of Filipino veterans whose families are not allowed to travel here to help with their support.

The Filipino Veterans Equity Act will address these problems. First, by extending the application deadline through November 1995, it will allow time for the State Department and the INS to more effectively inform Filipino veterans of their eligibility under the act.

Second, it will allow Filipino veterans to be sworn in as United States citizens while still in the Philippines. This will help to ensure that they do not have to impoverish themselves to come to the United States.

Third, by providing for special immigration status for their children, the act will lessen their reliance on social services when they do travel here. Allowing their families to join them in the United States is not only humane, but will ensure that their children and grandchildren will be able to assist in their support.

Mr. Speaker, these Filipino veterans are heroes who fought valiantly for this Nation during one of the darkest periods of our history. They should not be denied their chance for U.S. citizenship because of bureaucratic delays and red tape. This legislation will ensure that the United States keeps the promises and lives up to the commitments we made to them.

I ask my colleagues to join Congresswoman PELOSI and myself in supporting the Filipino Veterans Equity Act of 1992.

THE 90TH BIRTHDAY FOR ELLEN J. DAYTON

HON. RONALD K. MACHTLEY

OF RHODE ISLAND

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 12, 1992

Mr. MACHTLEY. Mr. Speaker, I rise today in honor of Ellen J. Dayton on the occasion of her 90th birthday. Ellen was born on August 23, 1902 in Newport, RI to Charles and Jenny Kalquist, charter members of the Swedish Lutheran Church. Ellen has two daughters, Phyllis Dayton Lohram and Diane Dayton Moore and five grandchildren. Ellen is an active member of the Svenska Evangeliska Lutherska Sions Forsamlingen Church and the Republic Party. My best wishes go out to Ellen for happiness and health on her special day.

INTRODUCTION OF INDEPENDENT COUNSEL LEGISLATION

HON. JACK BROOKS

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 12, 1992

Mr. BROOKS. Mr. Speaker, today, Congressman BARNEY FRANK and I are introducing legislation to reauthorize the independent counsel provisions of the Ethics in Government Act for an additional 5 years. We are pleased to join Senators LEVIN and COHEN in the other body in an essential effort to preserve a vital mechanism of our constitutional government.

The events of the past week point out vividly why we need the mechanism of an independent counsel to ensure both the public perception and the reality of the even-handed administration of justice at the highest levels of government. Just 2 days ago, the attorney general rejected the judiciary committee's request for an independent counsel to investigate United States assistance to the Iraqi regime of Saddam Hussein. In effect, he told the American people, "not to worry—there wasn't any criminal activity here, and even if there was, we can investigate it just fine right inside the Justice Department."

The phrase I used to describe the attorney general's response to us was "stonewalling, plain and simple." As all students of American history know, the origin of that expression was the sordid chapter that gave birth to the independent counsel statute: the Watergate scandal.

The need for an independent counsel is just as great now as it was during the days of Wategate because of the inherent conflict in any Justice Department—under a President George Bush or a President Bill Clinton—investigating and prosecuting allegations of criminal activity against officials at the top level of their own administration. Equally important, it is impossible in this situation to maintain the public perception of fairness.

One of the smoke screens that has been thrown up against the independent counsel statute is the claim that Congress is exempt from its provisions. That claim is false. The attorney general currently has implicit authority in the law to apply for an independent counsel when prosecution of a Member of Congress or anyone else would pose the sort of conflict of interest that underlies the statute as a whole.

However, to remove any doubt whatsoever about Congressional coverage, the bill we are introducing today includes an explicit provision authorizing the attorney general to begin the independent counsel appointment process if he receives information sufficient to constitute grounds to investigate whether a Member of Congress may have violated applicable Federal criminal law.

In addition, the opponents of the independent counsel statute have also raised concerns about administration and cost controls over the operations of individual independent counsels. I would say first that it should be recognized that any major criminal prosecution—whether it be of the Iran-Contra gang or of Manuel Noriega—is going to cost the taxpayers some money. That's the price we pay for enforcing the law. Nevertheless, in order to address these concerns head on, our bill places added fiscal controls over the independent counsels' administrative operations.

We intend to move this prudent and sensible piece of legislation through the process when we return to Washington in September. We will put it on the President's desk before the current law expires in December, and I hope he will have the good judgment to sign it.

A TRIBUTE TO VACLAV HAVEL

HON. TOM LANTOS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 12, 1992

Mr. LANTOS. Mr. Speaker, Vaclav Havel, the leader of the 1989 Velvet Revolution that peacefully ended the Communist authoritarian regime in Czechoslovakia, has stepped down as president of that country. His departure provides those of us who admire his leadership and integrity with an opportunity to recount his great triumph: the amazing ascension of the democratic movement in Czechoslovakia.

As a result of Mr. Havel's inspired leadership, 40 years of Communist rule came to end. Shortly after the revolution, I had the honor and pleasure of visiting with him in Prague. I found him to be a brilliant man who was eminently capable of orchestrating his country's transition from communism to democracy. Under his guidance, Czechoslovakia became an integral part of the bloc of Democratic nations.

Vaclav Havel's emergence as a world leader was nothing short of miraculous. He was subjected to harsh persecution for his criticism of the government, including many years in prison, during Czechoslovakia's years of Communism. Mr. Havel knew well the revolting reality of the system he would eventually overthrow. That knowledge, combined with his unflappable courage and strong convictions, propelled him to the world stage as a hero of democracy.

In October 1991, I had the pleasure of presenting President Havel with the Raoul Wallenberg Human Rights Award, an honor previously given to His Holiness, the Dalai Lama of Tibet, and the Democratic students of Tiananmen Square.

Mr. Havel provided the Czech and Slovak peoples, long subjugated under authoritarian rule, with a vision and a voice. Through him, they were able to see and articulate the promise of democracy.

It is my hope, Mr. Speaker, that President Havel will continue to play an important role in fostering democracy as the Czech and Slovak peoples establish independent sovereign republics. His experience and vision should prove invaluable in helping the people he so loves evolve peacefully into two separate and independent republics. He is well equipped to traverse the obstacles they will invariably confront. Some of those obstacles, ethnic intolerance, racism, and antisemitism, are of particular concern to Mr. Havel.

Mr. Speaker, the quality and clarity of Vaclav Havel's beliefs on this subject were displayed when he addressed the International Conference on Anti-Semitism in Post-Totalitarian Europe, sponsored by the Franz Kafka Center and the American Jewish Committee. I ask that his excellent remarks be placed in today's RECORD. As Vaclav Havel prepares to meet the challenges that lie ahead, I extend to him my very best wishes. He has changed the course of history, and his triumph will long be remembered and admired.

"I AM ASHAMED . . . OF THE HUMAN RACE, OF MANKIND, OF MAN."

Recently, homage was paid in Prague, in the presence of an honored guest, President Chaim Herzog of Israel, to the memory of the Jews who had been tortured to death in concentration camps. I said on that occasion that I feel strangely paralyzed whenever I am confronted with a situation that calls for a comment on the endless suffering of the Jewish people, and that paralysis "proceeds mainly from a deep—I would even say a metaphysical—feeling of shame. I am ashamed, if I may say so, of the human race, of mankind, of man. I feel that this is his crime and his disgrace, and thus also my crime and my disgrace. It is as if that paralysis suddenly threw me to the very bottom of the perception of human guilt and of my own co-responsibility for human actions and for the condition of the world in which we live and which we build."

. . . I deem it extremely important that your deliberations will focus not only on the past, however cruel it has been, but first and foremost on issues of the day: on anti-Semitism here and now. I am referring here to the whole of post-totalitarian Europe where anti-Semitism has suddenly reemerged with its characteristic bigotry, limited outlook and aggressiveness. . . .

The point is not whether anti-Semitism is more widespread in our part of the world than elsewhere: you are certainly well aware that we could also find many disgraceful cases in advanced democracies as well. In another respect, however, we could find a difference—a difference in the ways in which the more experienced democracies deal with this phenomenon and in the attitudes they adopt toward it. It is extremely dangerous for the new democracies to underestimate manifestations of anti-Semitism, to play them down, to fail to take action against them and, above all, to remain silent about them. . . .

I have been told recently about a pub in an area where a large part of the Gypsy population live. On the door of that pub there is a sign which says something to the effect that Gypsies are not welcome in that establishment. . . . In my mind, this kind of conduct, which bears a striking resemblance to the anti-Jewish instructions issued under the Nazi regime, is clearly intolerable. More than that, it is also a case in point reminding us of the breeding ground which produced the Holocaust, of the thousands of inconspicuous, non-murdering anti-Semites who helped send their fellow citizens to the gas chambers.

I should like to pay tribute to all those who contribute to a climate in which people will not enjoy drinking beer in a pub which has on its door a sign like the one I mentioned above, even if official authorities may prove unable to have the sign immediately removed.

I hope that your voice will be heard, and I wish your deliberations all success.

TRIBUTE TO DARRIN PLAB

HON. JERRY F. COSTELLO

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 12, 1992

Mr. COSTELLO. Mr. Speaker, I rise today to bring my colleagues attention to Darrin Plab, a student at Southern Illinois University in Carbondale, IL., has recently returned to the United States from Barcelona, where he participated in the XXV Olympic games.

After competing in the U.S. trials in June and finishing second, Darrin earned the honor of a place on the U.S. Olympic team for the high jump competition. Although Darrin did not qualify for the final high jump event at the Olympics, his participation in the Olympic games is something we can look forward to again in 1996 in Atlanta, GA.

Darrin Plab's performance in the trials, a jump of 7-feet, 8 1/2-inches, was surprisingly higher than the final gold medal winning jump of 7-feet, 8 1/4-inches. It is evident that southern Illinois has produced yet another outstanding athlete.

Darrin returned home to Mascoutah, IL and was given a hero's welcome with a parade and ceremony. Mayor Perrottet presented the Olympic athlete with a key to the city.

I am pleased to have the honor of congratulating Darrin for his athletic ability and hope my colleagues will join me in applauding his Olympic performance.

TRIBUTE TO UNITED ILLUMINATING

HON. GARY A. FRANKS

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 12, 1992

Mr. FRANKS of Connecticut. Mr. Speaker, I rise today in recognition of the accomplishments of United Illuminating, a Connecticut-based utility company.

United Illuminating has helped finance the Shelton Good Cents Housing Partnership, a project in my district that provides affordable, energy-efficient homes. Private investment has always been an essential component of economic growth in the United States. It has created jobs, modernized our infrastructure, and built our cities. private investment in the Good Cents Housing Partnership has demonstrated the value of cooperation between the public and private sectors.

The Shelton Good Cents Housing Partnership is a unique program that utilizes the resources of United Illuminating, Bullard-Havens Regional Vocational School, and the city of Shelton. United Illuminating has provided financial and managerial assistance for the project. Bullard-Havens has supplied eager, energetic workers who earned the valuable experience that they received. The city of Shelton donated the land that was used for the construction of the houses.

Specifically, the Shelton Good Cents Housing Partnership is the product of the wisdom, dedication, and experience of Jim Ryan, director of the Shelton Economic Development Corporation; Paul Jensen, chairman of the Shelton housing partnership committee; Joe Lavorgna, director of Bullard-Havens Regional Vocational Technical School; Shelton Mayor Mark Lauretti; and James Crowe, executive vice president of United Illuminating.

The integration of job training, job creation and the construction of affordable housing is a winning combination. I commend United Illuminating and the other participants in the Shelton Good Cents Housing Partnership, and I hope that more districts have the opportunity to benefit from the Good Cents program and other initiatives that encourage private investment. We must continue to foster private sector participation in the revitalization of our cities and towns in order to stimulate economic growth.

TRIBUTE TO ROBERT EVAN BUDINETZ

HON. DON RITTER

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 12, 1992

Mr. RITTER. Mr. Speaker, I am pleased that Robert Evan Budinetz, from my congressional district in the Lehigh Valley of Pennsylvania, was selected from over 147,000 secondary students this year as 1 of the 22 winners of the Veterans of Foreign Wars [VFW] scholarship for scriptwriting.

The VFW and its Ladies Auxiliary conduct the Voice of Democracy scriptwriting contest each year. This year's theme was "Meeting America's Challenge."

Better quality education is key to meeting many of America's challenges now and in the future. I would like, therefore, to include Robert's composition here and congratulate both him and the VFW for their excellent endeavor with the Voice of Democracy scriptwriting contest.

MEETING AMERICA'S CHALLENGE 1991–92 VFW VOICE OF DEMOCRACY SCHOLARSHIP PROGRAM

(By Robert E. Budinetz, Pennsylvania winner)

About two years ago, at a tennis camp in Arizona, a ninety-two-year-old tennis player signed up to play a doubles match. The camp pro assigned him three other players, all considerably younger than he, and all rather skeptical about playing with a man his age. Partners were chosen by a spin of the racket, and the play began. Within an hour, this elderly gentleman and his partner took the match 6–1, 6–1.

While walking off the court, the ninety-two-year-old remarked to his partner that he ranked number one in the United States in his age bracket, the eighty-five-years-old and up! He wasn't thinking ninety-two, he wasn't even thinking eighty-five. He was thinking number one.

It is just this kind of thinking that keeps America number one among nations. America meets its challenges much the same way as the tennis player did—with first place in mind. Americans were the first to walk on the moon. An American invented the first car. Americans were the first to break the sound barrier, and a group of American scientists introduced the atomic age.

It is America to whom the world turns in times of crisis. We all experienced the pride of America during the recent Gulf War as the world watched our armed forces lead the way in defense of freedom.

As teenagers of the nineties, and young adults of the twenty-first century, we face the challenge of continuing this strong American tradition. We face the challenges of our environment, world health, civil rights, poverty, and hunger.

But there have been some alarming statistics, released in the last several years, which suggest that we may not be adequately prepared to meet these challenges. America is facing a crisis in education which seems to be one of the most important challenges of this generation.

Although students are staying in school longer, and attending college in larger numbers, signs indicate that we are less well equipped in basic skills than students in the past. Last year, over one-half of American seventeen-year-olds tested didn't know simple details about our government. Our science and math achievement trails behind several smaller nations such as New Zealand, the United Kingdom; and Japan. Experts suggest that these science and math weaknesses threaten our economy, our defense, and our social capabilities.

In the traditional American spirit of meeting its challenges with a winning attitude, America has developed an ambitious strategy for reform. Called "America 2000," this plan would restructure education not from the top down, but school by school. By challenging communities to develop model schools with curriculums emphasizing basic concepts and skills, committed teachers, energetic students, and school culture that encourages appropriate behavior, this plan sets the goal of world class standards in education.

Just as the ninety-two-year-old tennis player played with a winning attitude, we, as students, can do our share to strengthen our educational system. We can change apathetic students into achieving ones if we learn to value the academic success of students the way we value a touchdown or a homerun. The kind of preparation and hard work that gets a baseball team to the World Series or a musician to Carnegie Hall is something we all understand. This same kind of preparation for winning applies to all aspects of learning, including success in school.

Scientists suggest that our environment at about age ten determines who we will be and what we will value as adults. We must develop winning attitudes before this age—and this development must begin at home. We must educate adults to expect their children's best in school. By doing this, we will be living up to America's tradition of excellence.

Shakespeare once said, "Strong reasons make strong actions." Meeting America's challenge of excellence in education is a very strong reason, and America is committed to very strong actions to meet this goal.

If we remember the determined tennis player who thought only in terms of being number one, and worked very hard to stay there, we realize that America can defy the negative statistics and put our educational system where it belongs—number one throughout the world.

SALUTING ST. PETER CHANEL HIGH SCHOOL FOR 35 YEARS OF ACADEMIC EXCELLENCE

HON. LOUIS STOKES

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 12, 1992

Mr. STOKES. Mr. Speaker, I rise today to salute St. Peter Chanel High School located in Bedford, OH. The school is completing 35 years of academic excellence and will launch a special anniversary celebration of Friday, August 28, 1992. I want to share with my colleagues some of the history and achievements of this outstanding institution.

St. Peter Chanel was founded in 1957 as an all-male school serving grades 9 through 12. The school was under the leadership of the Marist religious order. During the past 35 years, St. Peter Chanel has undergone numerous changes. Though the presence and religious fervor of the Marists are still present, the school is now a diocesan, coeducational high school.

Mr. Speaker, St. Peter Chanel High School can proudly boast in excess of 5,000 graduates. The school has been selected as one of the best private-parochial schools in the Greater Cleveland area. It is also interesting to note that in recent years, more that 90 percent of the school's graduates have gone on to further their education.

Over the years, graduates of St. Peter Chanel High School have achieved high levels of success in their chosen fields. More importantly, St. Peter Chanel graduates have become productive and contributing members of their communities. It is a strong reflection of the commitment to service and responsibility instilled at St. Peter Chanel.

Mr. Speaker, I rise today to recognize St. Peter Chanel High School for 35 years of academic excellence and 35 years of community service. I extend my congratulations to the current principal of St. Peter Chanel, Roger Abood, and his staff. I hope my colleagues will join me in wishing him much continued success.

ALVAREZ-MACHAIN RULING

HON. LEON E. PANETTA

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 12, 1992

Mr. PANETTA. Mr. Speaker, The U.S. Supreme Court's recent decision to sanction the kidnapping of Dr. Humberto Alvarez-Machain, who is being held in connection with the horrific murder of Drug Enforcement Agency [DEA] agent Enrique Camarena Salazar, has incited global debate. Critics of the judgment contend that it was a violation of international law since Alvarez-Machain was abducted by DEA-funded Mexican bounty hunters, without the consent or knowledge of Mexican authorities and without honoring the extradition treaty between the United States and Mexico. According to Chief Justice William Rehnquist, the Supreme Court maintains that the United States did not violate the agreement because kidnapping was not specifically forbidden in the document. Many specialists feel that the Court's ruling sends a negative message not only to Mexico but to all other countries with whom the United States has extradition treaties, particularly in Latin America.

I draw attention to the following useful report, which appeared in a July issue of the Washington Report on the Hemisphere, a biweekly publication of the Council on Hemispheric Affairs [COHA]. The article evaluates the opinion of the U.S. Supreme Court in regard to its approval of kidnapping by the U.S. Government to bring suspects to trail in the United States and suggests that the decision disregards the principles of international law. The article was written by COHA research associate Greg Montes.

ALVAREZ-MACHAIN RULING ALLOWS UNITED STATES TO KIDNAP IN FOREIGN COUNTRIES

(By Greg Montes)

In its judgment in *United States versus Alvarez-Machain,* rendered June 15, the Supreme Court ruled in a 6–3 decision that the U.S. Government may constitutionally kidnap suspected criminals from other countries regardless of existing extradition treaties, setting a precedent that could jeopardize 103 such agreements that the U.S. has signed with other countries. The Iron-fisted finding, which overturned rulings handed down by the Federal District Court in Los Angeles and the U.S. Court of Appeals for the Ninth Circuit in San Francisco, has been widely interpreted by the international community to mean that the U.S. is no longer bound by the constraints of international law. The decision allows the U.S. to try Humberto Alvarez-Machain, a Mexican medical doctor accused of complicity in the kidnapping and murder of Drug Enforcement Administration (DEA) agent Enrique Camarena Salazar and his pilot in 1985. Alvarez-Machain is alleged to have drugged Camarena, prolonging his life so that narcotics traffickers could torture him and obtain information about U.S. drug interdiction operations, before killing him.

MEANS OF BRINGING ALVAREZ-MACHAIN TO JUSTICE DISTURBING

Once informal negotiations with Mexico failed to win custody of the Mexican doctor, the DEA resorted to improvised means. In April 1990, Alvarez-Machain was kidnapped from his office in Guadalajara by rogue members of Mexico's federal police who were paid $20,000 each and given refuge and new identities in the U.S. He was then flown to Texas and turned over to drug enforcement officials. Previously, DEA agents had kidnapped drug suspects from Bolivia, Nicaragua, Honduras and Mexico over the last five years.

The controversy surrounding the Supreme Court decision stems from Washington's determination to prosecute the defendant irrespective of another country's laws or institutions. U.S. officials seized Alvarez-Machain without Mexico's approval, an action that circumvented the extradition treaty signed by the two countries in 1978. But speaking for the majority, Chief Justice William Rehnquist defended the U.S. action. He argued that "The treaty says nothing about the obligations of the United States and Mexico to refrain from forcible abductions of people from the territory of the other nation, or the consequences under the treaty if such an abduction occurs. . ." U.S. Attorney General William Barr went so far as to call the ruling an "historic victory." The majority cited the 1886 decision in *Ker* v. *Illinois* as justification for the kidnapping of Alvarez-Machain. Many hailed the action, claiming that a fair prosecution could not occur in Mexico, where drug-related law enforcement efforts are often alleged to be corrupt.

In the dissenting opinion, Associate Justice John Paul Stevens protested that "It is shocking that a party to an extradition treaty might believe that it has secretly reserved the right to make seizures of citizens in the other party's territory . . ." In contrast, some have pointed to the 1984 case of rancher John Hull currently pending in Costa Rica, in which the U.S.-born, now-Costa Rican citizen, was indicted for the attempted murder of former Contra leader Eden Pastora in the La Penca bombing, as a further example of Washington's cavalier attitude toward extradition treaties. Arrested in 1989 on drug trafficking charges, Hull escaped to the U.S., and Costa Rica's extradition request for him has since been ignored.

Critics have questioned the validity of using *Ker* as a precedent for *Alvarez-Machain,* noting significant differences between the two cases, Ker, a U.S. citizen, was kidnapped in Peru with Lima's approval and returned to the U.S. to face larceny charges. Alvarez-Machain, by contrast, is a Mexican citizen wanted for murder by both the U.S. and Mexico, who was brought to the U.S. without the other country's knowledge or consent.

MEXICO DECLARES RULING "INVALID AND UNACCEPTABLE"

From the outset the Salinas Administration has condemned the U.S. intervention as a direct violation of the extradition treaty intended to govern the transfer of individuals from one country to another for trial. Article Nine of the treaty indicates that the case must be submitted to the courts of the country who refuses an extradition request. Mexico initially reacted with a one-day severing of joint drug interdiction activities, but then defended its decision to restore the policy of cooperation as showing Mexico's commitment to the "war on drugs." President Bush has since assured the Mexican Congress that the court decision would not foster a trend of similar kidnappings, and Secretary of State James Baker has reaffirmed U.S. respect for Mexico's sovereignty. Nevertheless, the fear is that the Supreme Court decision will set a dangerous precedent for future kidnappings. Some even note that it is possible, and would be similarly "legal" if Americans were to be kidnapped here for trial in other countries. In any event, Washington refused to consider revising its treaty with Mexico.

The presidents of six South American countries want the Organization of American States' Inter-American Judicial Committee to issue an opinion on the Supreme Court ruling. The Alvarez-Machain case was condemned at the Ibero-American Summit of inter-American leaders, and Mexico announced that it will no longer accept U.S. drug aid in what has to be an angry reaction to the court's action. The Salinas Administration will be seeking to amend the treaty at the Binational Commission meeting in October as well as taking the case before the International Court of Justice for further review.

INTRODUCING A BILL TO AWARD "DIZZY" GILLESPIE THE CONGRESSIONAL GOLD MEDAL

HON. JOHN CONYERS, JR.
OF MICHIGAN
IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 12, 1992

Mr. CONYERS. Mr. Speaker, I am pleased to introduce legislation, along with thirty of my esteemed colleagues, which awards jazz musician extraordinaire, John Birks "Dizzy" Gillespie, the Congressional Gold Medal. Mr. Gillespie has been, in effect, our primary cultural ambassador to the U.S. Department of State. This is an honor afforded to him for all of the friends that he has won to this country as a result of their love of jazz and our musician Dizzy Gillespie.

The traditional awarding of Congressional Gold Medals, which began in 1776, allows Congress to express public gratitude to individuals and groups for their distinguished contributions in the field of arts, athletics, aviation, diplomacy, exploration, politics, medicine, science, and entertainment. This award, which initially was most often bestowed upon military leaders, has been given to over 100 diverse individuals ranging from Sir Winston Churchill and Bob Hope—George Washington and Howard Hughes—Joe Louis and Lady Bird Johnson. To date, 15 Americans from the arts and the world of entertainment have received congressional gold medals. John Birks "Dizzy" Gillespie, as fans world-wide will agree, should be number 16.

In February of this year, many friends and fans of Mr. Gillespie were shocked to hear he was hospitalized after a performance in Oakland, CA. Though Mr. Gillespie made an amazing recovery, and will continue to share his musical genius with the world, it should not go unnoticed that he will be celebrating his 75th birthday this October 21. It is vital for the Nation to recognize Dizzy for the years of musical enjoyment he has so willfully given to not only the American people, but to the entire world.

Along with the late Charlie "Bird" Parker, Mr. Gillespie pioneered bebop, a new and fresh harmonic and rhythmic vocabulary which created a musical revolution that completely transformed jazz and dramatically impacted on 20th century musical culture. He is also universally credited as the catalyst who incorporated Afro-Cuban, Brazilian and Caribbean music and rhythms into the jazz idiom.

Mr. Gillespie's ability to capture the heart of every audience he plays before has afforded him many honors from the State Department. In 1956, he was the first jazz artist appointed by the Department of State as Cultural Ambassador to tour on behalf of the United States of America, and his resoundingly successful tours through the Near East, Asia, Eastern Europe and Latin America, were early landmarks in what has been a virtual lifetime of cultural statesmanship by the inimitable jazz master on behalf of this country.

Mr. Gillespie has also captured the hearts of journalist and writers world-wide. Steve Holtje, Chris Smith, David Grogan, Francis Davis, and Michael Bourne are just a few of the numerous journalist who have depicted Mr. Gillespie's spirit and talent on paper. Their accounts follow, and speak for themselves.

I urge my fellow Members to join me in recognizing Mr. Gillespie in a truly unforgettable and deserving manner by cosponsoring legislation to award him the Congressional Gold Medal.

THE NEW YORK REVIEW OF RECORDS—DIZZY GILLESPIE

Dizzy Gillespie, the most beloved and recognizable figure in jazz today, refuses to rest on his laurels. When the man who spearheaded the Bebop movement with Charlie Parker And Thelonious Monk is accused of having a nice little resume, his response is, "Bah . . . I don't think that I have accomplished half of what I know and what I think that I should do if I weren't so lazy and weren't such a procrastinator. I'll break out of it one day, though." The most recent evidence of the 74-year-old genius's effort to mend his ways is Live at the Royal Festival Hall (Enja, dist Mesa/Bluemoon) by Dizzy Gillespie and the United Nations Orchestra.

In a way, the idea of the United Nations Orchestra shows the effect Gillespie had on Jazz, beyond the theoretical developments of his compatriots. Gillespie's showmanship and charisma (and his unrivalled trumpet skills) helped get the brave new harmonies and rhythms of Bebop across to an audience weaned on the safer sounds of Swing and then expanded the boundaries of Bebop by incorporating Latin rhythms, leading to the new category of Afro-Cuban jazz and helping spread Jazz around the world. Dizzy's iconic popularity is such that he was given a Kennedy Center award, an honor reserved for those whose talent is so undeniable that even our Philistine government must acknowledge it.

The common conception of the frog-jowled trumpeter has him in a small group, but he has a long big band history. His first major job was as Roy Eldridge's replacement in Teddy Hill's band in 1937, a situation in which he as an unproven youngster who needed an ally. "Bill Dillard was the lead trumpet player with Teddy Hill, and he was also a singer, a ballad singer. He helped me a lot when I went in that band. There were others that were jealous of my being so young. I was only going on twenty, and they thought I was too young to be in the group. In fact, one of the guys said there should be a major league and a minor league in music. And then I spoke to the fellow who said that—I said, 'Nevertheless, what kind of job did you have before you got the job with Fletcher Henderson making $15 a night and then Teddy Hill making $33 a week at the Savoy Ballroom?' . . . I don't think he liked it too much." Stints in the bands of Cab Calloway, Earl Hines, and Billy Eckstine followed. After achieving enough fame, via his legendary quintet with Charlie Parker, to lead his own big band, Dizzy broke ground by hiring the fiery Cuban drummer Chano Pozo to play bongos and conga with the band. So it's appropriate that the United Nation Band covers a broad range of nationalities (as the liner notes explain, "three Cubans, three Brazilians, a Panamanian, a Puerto Rican, a Dominican, and six Americans of varying backgrounds") and generations. Besides Gillespie, the band elders include saxophonist James Moody, 66, and trombonist. Slide Hampton, 59; the newest generation is presented by pianist Danilo Perez, 25, and a congo player and percussionist Giovanni "Maneguito" Hidalgo, 28. Other notables on the album are trumpeters Claudio Roditi and Arturo Sandoval, trombonist Steve Turre, vocalist Flora Purim, and percussionist Airto Moreira.

Gillespie's obviously happy that it's easy to find young talent. Of the young lions, he enthuses, "Beautiful. There's so many. They're coming out of the woodshed. There's Terrance Blanchard. There's Wynton Marsalis, everybody knows about him. There's a young tenor player from Puerto Rico who went to Paris with me [David Sanchez, 22], good, very reserved mind, very old mind, knew his changes, knew where he was going, and knew where he came from." Of the younger member of the United Nation Orchestra (which he insists is "an almost big band"), he says, "They understand where I come from and where I've been, so they expect me to do some pulling them together and things like that, but they're alright, the guys are really professional." Though he claims he has nothing to teach them, both Sandoval and sometime-member Jon Faddis are his trumpet proteges.

Asked what the future holds, Gillespie replies, "I'm working on my 75th birthday; a cruise, a composition by a friend of mine from Nigeria named Kingsley Azuomba Mbadiwe. He died and I'm writing something for him. They're having a big thing at Carnegie Hall next year and I want to have that ready." Also, he continues, he "just did a recording out in San Francisco with a big band and a small band, and I made a record with Randy Weston the other day, and then I will make something with Miriam Makeba." And at this year's JVC Jazz Festival he seemed to be everywhere, saluting Doc Cheatham, Sarah Vaughan, and Dexter Gordon. Avoiding the jazz controversies and personal conflicts that seem to inspire some (his only comment being, "When I hear something not really right about one or the other, I try to ooze it over. We all speak the same language."), he makes it clear what keeps him going: "Music inspire me."

DIAMOND DIZZY

"How does this thing work?"

Dizzy Gillespie turns the instrument over, looking at it with mild curiosity. "Can I give it a try?"

He puffs out his famous cheeks and gets ready to work. But the instrument he's holding isn't his trademark trumpet with the upturned bell; it's a boxy, large-format Hasselblad camera fitted with Polaroid film—one that's just been used to photograph Gillespie, on a December afternoon at the Blue Note jazz club. Squinting into the viewfinder, he takes his time, mumbling about not knowing what he's doing, then snaps a shot of a PR man. Slowly, the image develops, and someone lets out a whistle. The shot is bracing, carefully composed, dominated by a thick diagonal shadow that cuts through the subject's face—a slashing modernist statement rather like the ones Gillespie has been making on trumpet for well over 50 years.

He smiles—a grin both wicked and childlike, with all sorts of sly wisdom lurking behind. "Not bad for a beginner," he says.

As he approaches his seventy-fifth birthday (October 21), Gillespie still retains that beginner's sense of wonder, a joy that informs his playing today just as it did when he was inventing bebop alongside Charlie Parker, or extending bop's revolutionary vocabulary to big-band jazz, or leavening the music with African-Cuban polyrhythms. His playing doesn't leap out of the gate and gallop into the upper register the way it used to; instead, it trots around the track, dodging and feinting with darkened tones, before

heading up, up, and away when it's least expected.

The music remains a marvel, but it is sometimes obscured by the clowning demeanor that has endeared Gillespie to millions, making him a familiar figure to folks who've never even heard "A Night in Tunisia." It is so easy to toast Dizzy the comedian, Dizzy the dancer, Dizzy the funny old father figure that Dizzy the unqualified musical genius tends to be overlooked. I ask him if he knew, way back when, that the public would be able to accept his showmanship more easily than his music. "No. I never knew that—I don't think that was the case," he says, growing wary. "I didn't have the people in mind—I was just always that way. I like people to like me. I'd stand on my head if necessary."

That approach sometimes put him at odds with Parker, his musical brother, an astoundingly witty player who never clowned on the bandstand. At one 1953 gig in Toronto, Gillespie's antics during "Salt Peanuts" kept the crowd laughing during Parker's solo; on the record, you can hear the anger in Bird's playing. It's a famous jazz moment, but Gillespie doesn't care to recall it. "I don't know about that," he says. "Mingus and I had an argument that night, but not Bird."

Gillespie can be forgiven for not wanting to dredge up complicated memories, and he is willing to compare his attitude toward showmanship with Parker's: "I think, in the back of his mind, he wanted to be popular, to make money. He did things to push that forward. Any artist wants to be popular, no matter how great he is."

This new year will be a celebration of Gillespie's greatness, popularity, and vigor—a globe-trotting diamond jubilee that kicks off January 7 with an unprecedented monthlong engagement at the Blue Note—"the longest time," Gillespie notes, "I've ever spent in one place."

He'll perform with a different band each week, first with an all-star bebop septet, then with his stomping, ebullient Latin-jazz big band, the United Nation Orchestra. The third week, a program called "To Bird, With Love," honors Dizzy's association with Parker by teaming Gillespie with two different saxophonists each night. The final week, "To Diz, With Love," brings in new trumpet duos each night to duel with Diz—Wynton Marsalis, Roy Hargrove, Terence Blanchard, Red Rodney, and ten more.

"Mmmmm-hmmm. Oh, my goodness," Gillespie says, sipping a beer, tapping on a tabletop, and checking out the lineup. "Whoooo-weeeee. I'll be tired by the end of this."

Not too tired to play in twelve cities on the following fourteen nights, then depart for the Far East, Britain, Africa, Europe, and South America—all before he returns to New York in June for a Gillespie tribute at the JVC Jazz Festival.

"It's not so bad—look," he says, pointing to two blank days on the schedule. "I've got a break right there." The so-called break gives him time to get from California to Korea. "I've never been to Seoul," Gillespie says. "The education continues."—Eric Pooley

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DIZZY—FROM SOUTH AFRICA TO THE BERLIN WALL, DIZZY GILLESPIE IS MAKING HISTORY WITH A CAPITAL H.

(By David Grogan)

He looks like a visiting potentate. In just a few moments, jazz trumpeter Dizzy Gillespie will kick off his 1990 European tour at the Tent Music Festival in Freiburg, West Germany, and in honor of the occasion he has donned one of several ceremonial robes given to him a year ago by the king of the Iperu tribe in Nigeria. Along with the official raiments, the king bestowed on Dizzy the title of Baashere of Iperu, the tribe's chief of entertainers. "The Baasheeeere of Ipeeeeru," says Dizzy, savoring the sound of the words."Whooeee. Ain't that a bitch!"

On the festival grounds, where several tents have been arrayed carnival-style a gentle summer breeze carries the scent of fir from the surrounding Black Forest. Under the big top, however, the atmosphere is steamy. A crown of 2,000 has begun clapping and stomping its feet as the 15 members of The Dizzy Gillespie United Nation Orchestra file onto the stage and launch the infectious Latin beat of one of his signature tunes, "Manteca."

Midsong, Dizzy emerges from the wings with the trademark bell of his trumpet pointed heavenward and his cheeks expanded like a giant blowfish. He is greeted with a roar of approval as he plays a spiraling variation on the melody and then does an elaborate dance step across the stage. After the song, Dizzy pauses to take a deep breath. "We thank you, ladies and gentlemen, for that tooo-multuous applause," he says. "It was tooo much." Then, wiggling his hips amid gales of laughter, he delivers the coup de grâce. "It moooved me."

At 72, Dizzy Gillespie remains a man in perpetual motion. This December, in recognition of his historic contributions to American music as one of the founding fathers of both be-bop and Afro-Cuban jazz, he will receive the Kennedy Center Honors for lifetime achievement in the performing arts. But rather than resting on his laurels, he continues to spread a joyous spirit of bedlam to nearly every corner of the world. Dizzy's globe-girdling schedule in 1990 has included more than 300 concert performances and the release of Max + Dizzy (A&M), a live recording of a daring improvisational duet with drummer Max Roach. In the meantime, he composed the score for a major motion picture, which also marks his silver-screen acting debut. In The Winter in Lisbon, a thriller by Spanish director Jose Zorilla scheduled to premiere at the San Sebastian Film Festival this month, Dizzy plays the part of a castaway jazz musician in Europe who is unwittingly drawn into the orbit of gangsters and political terrorists.

In recent months, Dizzy has been caught up in the real-life drama of political change that has dominated world news, from South Africa to Eastern Europe. "I've been involved in history," he says. "That's right. History, with a capital H."

On March 21, Dizzy was invited to perform at a gala in Namibia marking the establishment of the former South African territory as an independent nation. The guests included Nelson Mandela and nearly all the African heads of state, as well as high-level diplomatic representatives from around the world. He appeared at the personal invitation of Namibian President Sam Nujoma, an ardent fan of his music.

Dizzy traveled to Namibia aboard Air Force II with U.S. Secretary of State James A. Baker III. "I was sitting in the second cabin, and all the State Department business was going on up front," he says. "But then the secretary of state came back and asked me to join them. So I took my horn and played 'When Irish Eyes Are Smiling.' He sang along with me, and pretty soon the whole plane joined in. They sang really loud, too, and with great exuberance."

Last May, in the midst of extraordinary political changes in the Soviet bloc, Dizzy made a whirlwind "One World" tour that included back-to-back one-nighters in East Berlin, Moscow and Prague. Before performing at a concert attended by 4,500 East and West Berliners, he made a personal pilgrimage to the Brandenburg Gate. "I climbed right up on top of that raggedy old Berlin Wall and threw a few rocks to the people standing down below," he says. "It was wonderful seeing everyone look so jolly." Visiting Moscow for the first time, he played for a packed concert-hall audience of 2,500 and was presented with a separate bouquet of roses after every song. "I never thought I'd see so many flowers at once in my lifetime," he says.

In Prague, Czechoslovakia's new president, Václav Havel, attended the concert Dizzy gave for 4,300. "He was waving from the audience," Dizzy recalls. "I had to get my glasses to see him." After the performance, Havel showed up at a reception in Dizzy's honor. "He's so warm and gentle, not like a head man," says Dizzy. That night Havel also proved to be tireless. "He wouldn't leave," says Dizzy, "so I couldn't leave. They brought me a chair and I sat there and greeted everyone. Finally he came over and said he had to go. I said, 'Yeah, I was thinking the same thing."

The One World tour was organized by the Baha'i faith, of which Dizzy is a devout member. When a jazz fan from California first gave him some literature about the Baha'i more than two decades ago, Dizzy was taken by the sect's gentle philosophy of openness. "Baha'i is the only religion which explicitly honors every other religion," Dizzy says. "We believe that Moses, Zoroaster, Buddha, Jesus and Mohammed were all bonafide messengers of God." As a symbol of his faith, Dizzy always wears a large quartz rock around his neck taken from Mt. Carmel in Haifa, Israel, where the Baha'i prophet Mirza Ali Mohammed is buried. He carries a prayer book with him during his travels and recites a ritual devotional every day.

Married 50 years last May, Dizzy gives primary credit to his wife Lorraine (a devout Catholic who cherishes her privacy) for keeping him on the straight and narrow. "Whatever happens, she is right," says Dizzy. "Don't tell your wife she's wrong. If she's wrong, she knows it. But she doesn't want to hear it." Dizzy and Lorraine have no children, but he receives an abundance of filial love from the Baha'i faithful who greet him with flowers or hearfelt messages nearly everywhere he goes. "It's nice to have a family out on the road," Dizzy says. "Often they don't speak English, but they'll seek me out anyway."

The Bahai'i, who now number 4.5 million worldwide, look to a future when peace on earth will be established by a beneficent global government. "The day will come when people realize that the world is but one community and mankind its citizens," Dizzy says. "That should take care of just about everything."

A similar spirit of ecumenism prevails in Dizzy's aptly titled United Nation Orchestra. The multiracial group spans several generations and includes musicians from Cuba, Brazil, Panama, the Dominican Republic and Puerto Rico, as well as the United States. There is an invigorating sense of cultural and creative anarchy among the band members, combined with an esprit de corp that reflects their love and respect for their friend and mentor.

In the four weeks following the Freiburg concert in late June, Dizzy and company will crisscross Europe by bus and plane, playing one-nighters in 24 cities. Today they will travel eight hours by bus to Verona, Italy. Five minutes before the scheduled departure, saxophonist James Moody, who prides himself on his punctuality, stands alone outside the hotel with his bags, welcoming the eventual parade of stragglers with his trademark greeting: "What are we waiting for?"

Moody, now 65, was just 21 when he first played with Dizzy and has remained one of his closest friends. "Every time I get on the bandstand with him is a musical lesson," Moody says. "Sometimes little bits of wisdom he imparts will come back to me years later and I'll say, 'Ah!'"

This morning Dizzy is a half-hour late and gets a kiss on both cheeks from Moody before getting on the bus. Several members of the band have already curled up in their seats and gone back to sleep. But Dizzy is bright-eyed and launches into a discussion with Cuban saxophonist Paquito D'Rivera about firecrackers. "I'm a fireworks freak," Dizzy admits "Last time I was down in South Carolina, I bought $200 worth of firecrackers to take with me to my home in Englewood, New Jersey, and shot them off in a neighbor's yard. With some of that stuff we could have gone to war. I don't know why, but for some reason I never got enough fireworks as a kid."

Christened John Birks Gillespie, Dizzy was always into some kind of mischief as a boy growing up in Cheraw, S.C. His father James, a brick mason, encouraged the eight other Gillespie kids to take up music, but not Dizzy, his youngest. "I was so busy being bad," Dizzy recalls, "Every Sunday after church my father would get his razor strap and whup me, even if I hadn't done anything wrong." Dizzy was just 10 when his father died from a severe asthma attack. "When I heard he was dead, the first thing I did was to take that razor strap and cut it into a thousand pieces," Dizzy says. "Nobody used that strap after that."

Dizzy started playing trombone at 14, but his arms were too short to extend the slide. Nine months later, a neighbor loaned him a trumpet, and he quickly revealed a natural facility for the instrument that earned him a scholarship to study at the Laurinburg Institute, a vocational school in North Carolina. When his mother Lottie moved to Philadelphia in 1935, Dizzy dropped out of school a few months before graduation to follow her. He soon landed a gig in a band led by Frankie Fairfax and showed up for his first few sessions carrying his trumpet in a paper bag. "Guys in the band joked about me being 'that dizzy trumpet player from down South,'" Dizzy says. "And the name stuck."

Steve Turre, a trombonist and master of the conch shells, moseys to the back of the bus to show off the six-inch blade he carries for protection as a streetwise resident of New York. Admiring the razor-sharp knife, Dizzy suddenly reaches into his pants pocket and pretends to pull out a switchblade. Though he gave up carrying a knife a few years ago because of the hassles of getting through airport security, the movement of Dizzy's hands is quick and facile. "I learned that from The Judge," he says, referring to bassist Milt Hinton, now 80, a colleague from his days with the Cab Calloway band.

Dizzy was 22 when he joined the Calloway band in 1939, performing at New York's Cotton Club for six months at a stretch and touring the rest of the year. Paid $30 a week, Dizzy made twice the salary of most other working musicians in New York. "My pockets had the mumps," he says. But he soon grew restless playing the same old repertoire every night. "Between shows at the Cotton Club, Milt and I used to go up on the roof and practice," Dizzy recalls. "I showed him some new chord changes, including a variation on the Irving Berlin song 'Girl of My Dreams' which was very radical at the time. In turn he taught me how to handle a switchblade. He'd say, 'You ready to take care of business?' Then we'd stand there like cowboys, pulling our knives out of our pockets."

One night in 1941, Hinton took center stage with a small ensemble called the Cab Jivers and muffed his solo on "Girl of My Dreams." From the shadows, Dizzy made a sweeping gesture of disgust with this arm just as trumpeter Jonah Jones threw a spitball that landed at Calloway's feet. Convinced that Dizzy was to blame, Calloway demanded an apology after the show. "I was adamant. I told him I didn't do it," says Dizzy. "Then he grabbed me by the collar, and I had my knife out in a second. Milt hit my hand down and prevented me from doing any real serious damage. But I nicked Cab on his butt, and next thing you know there was blood all over his white suit. He was red and white." Dizzy was promptly fired but eventually became good buddies again with Calloway, now 82. "I still call him every Christmas," says Dizzy. "It's his birthday."

Midafternoon, Dizzy stretches out on the back seat of the bus, humming the melody to the Charlie "Bird" Parker tune "Now's the Time." Within minutes he is snoring loudly. Meanwhile the rest of the bus comes alive with music. Up front, Slide Hampton, a master trombonist from New York, huddles over a small electronic keyboard with Danilo Perez, an up-and-coming young pianist from Panama. As the pair runs through numerous complex chord progressions, bassist John Lee, guitarist Ed Cherry and Cuban drummer Ignacio Berroa Kibitz. Toward the rear of the bus, Dominican saxophonist Mario Rivera and Brazilian singer Flora Purim listen intently as Puerto Rican conga player Giovanni Hidalgo and Brazilian percussionist Airto Moreira join in a haunting chant. While tapping out a hypnotic beat, they sing of Chango, believed by followers of the Caribbean folk religion Santeria to be a spiritual medium associated with thunder and lightning.

As the bus nears Verona, trumpeter Arturo Sandoval, a protégé of Dizzy's from Cuba, plays a few bars from a classical concerto by Leopold Mozart. Then he catches a glimpse of the ancient Roman arena where the band will perform. "Hey," Sandoval shouts. "I think that place is even older than Dizzy Gillespie."

Backstage before the Verona show, Brazilian trumpeter Claudio Roditi is demonstrating to Dizzy how he can alter his intonation by changing his grip on his horn. "This guy is a real scientist when it comes to the trumpet," exclaims Dizzy, whose own trumpet technique defies scientific interpretation. He has played with his cheeks puffed out since shortly after leaving the Calloway band. "It just happened," Dizzy explains. "A doctor once told me I must have vestigial gills." A decade later, at a private party in New York, two comedians accidentally knocked over one of Dizzy's trumpets, bending the bell upwards. "I decided I liked the horn bent because I can hear a note the minute I hit it," he says. "This way I can hear my mistakes faster."

Tonight is a historic occasion, with Dizzy and the United Nations Orchestra featured on the same bill with groups led by drummer Max Roach and trumpeter Miles Davis. All three men were once close associates of saxophonist Charlie Parker, and nearly a half-century later, they are among the few surviving titans from the be-bop era.

Dizzy takes the stage before an exuberant crowd of 17,000 assembled in the open-air amphitheater. Brass harmonies resound with the fullness and power of a squadron of Roman chariots; the crosshatched rhythms laid down by the percussion section sizzle in the night air. Two hours later, Dizzy takes his last bow and parks himself onstage to listen to his old pal Max Roach premiere several ambitious new compositions with a quintet and 12-member chorus. "That's hard work," says Dizzy, watching Roach conduct the group while simultaneously rapping out complex and muscular rhythms on the drums.

"Just seeing you sitting there on stage gave me inspiration," says Roach, hugging Dizzy after they'd finished the set. "You know I couldn't write a note until I met you."

Miles Davis is scheduled to appear around midnight and Dizzy is tempted to stay, but he opts instead to get some rest. On the way out, he casually drops by Miles' dressing room; they talk of embouchure (use of the mouth in playing the trumpet) and the difficulties trumpeters face in keeping their mouths in playing shape. Dizzy bemoans having extensive dental work done recently after cracking some teeth eating beans and rice. "Yea," Miles commiserates. "They got my teeth put together with crazy glue."

"You've got the biggest tongue in the world," Miles jokes.

"My tongue has just got a lot of desire," replies Dizzy.

The next morning, over breakfast, Max and Dizzy enjoy a few laughs talking about Miles' mystique. "Miles has got this Greta Garboish attitude," says Dizzy. "He doesn't want anybody to see him until he goes on stage. But he never acts funny around Me." Max shares Dizzy's bemusement. "What Miles is aware of is the visual, how important it is to look good in this television age," he says. "When my kids see him, they don't talk about what he sounds like, just what he looks like."

En route from Verona to Lugano, Switzerland, a five-hour drive, Dizzy takes Danilo Perez aside to express his appreciation for his virtuosity at the piano the night before. "You played your ass off," Dizzy says. Beaming, Perez asks Dizzy about the chord changes to "Cherokee," a breakneck-tempo tune that Charlie Parker turned into a bebop masterpiece. "Every night with Charlie Parker was magic," Dizzy tells Perez. "But he had something else to do off the bandstand. People told me he was using dope. I couldn't verify it, though. I never saw him shoot up. I guess he sort of looked up to me morally because I didn't do the things he was accused of doing."

Dizzy first met Parker in Kansas City in 1940, while traveling with the Calloway band. "He was up in a hotel room playing 'Sweet Georgia Brown,'" says Dizzy. "I'd never heard anything before like the sound he got out of that raggedy old horn." In the years to come, Dizzy and Bird turned the jazz world on its ear, first in jam sessions at such New York nightclubs as Minton's Playhouse and later as musical co-conspirators in bands led by pianist Earl Hines and singer Billy Eckstine. In 1945, Dizzy also became a bandleader and included Parker in his front line. Their partnership culminated in a leg-

endary eight-week booking a year later at Billy Berg's in Hollywood. When Dizzy returned to New York, however, Parker lingered on the West Coast. "I gave him all his money and a ticket back, and what he did with it God knows," recalls Dizzy. "He suffered a nervous breakdown soon after that and went into Camarillo State Hospital."

In 1947, Parker surprised Dizzy when he showed up at his first major concert at Carnegie Hall. "He walked out on stage with a rose," Dizzy says. "It probably cost him his last 75 cents." And Dizzy is still haunted by the memory of his last encounter with Parker, just a week before his death in March 1955. "I ran into him at a club called the Embers, on 52nd Street in New York, and he looked so sad," says Dizzy. "He said, 'Save me.' I said, 'Man, nobody can save you. You have to save yourself.' Of course when I heard he died, it really broke me up. I thought I would never get over it."

In Lugano, a charming lakeside town in southern Switzerland, the atmosphere is electric among the crowd of 5,000 gathered in the village center for an open-air concert. Between tunes, Dizzy tosses a few bottles of mineral water to people hanging on the edge of the stage and mugs for a legion of amateur photographers. Long after Dizzy has completed his encore, screams and shouts continue to fill the square. "It's bedlam," says Dizzy.

As the bus heads out at high noon the next day, bound for Turin, Italy, a sense of anticipation fills the air. Eight hours hence, Dizzy is scheduled to perform on the same bill with master vibraphonist and timbale player Tito Puente, the Puerto Rican mambo king, who was won three Grammys. For the Latin members of the band, it will be something of a family reunion.

During the late "40s, Dizzy and the late percussionist Chano Pozo launched a musical revolution by fusing Afro-Cuban rhythms with jazz. Pozo co-wrote "Manteca" with Dizzy. "Chano used to say, 'Me no speak English. Dizzy no speak Spanish,'" Dizzy says. "And I'd say, 'Yeah, but we both speak African.'"

In those days Dizzy would raise the roof at the New York jazz clubs Birdland and the Royal Roost, then party at the Palladium, a Latin dance hall where Tito Puente ruled the bandstand. "A Cuban girl taught me all the dance steps," Dizzy says, "I entered a dance contest with her and we won."

In Turin's town square, Puente, now 67, and his Latin Jazz Ensemble quickly have the crowd of 10,000 clapping hands and bumping hips. Then, when Dizzy and his band take the stage, it's one-upmanship time. During a solo on Dizzy's composition "Tanga," Arturo Sandoval hits a high G on the trumpet, which leaves his fellow Latino musicians shaking their heads in disbelief and prompts Dizzy to raise his arms in a gesture of surrender.

There is a little extra wiggle in Dizzy's walk as he strides across the stage to greet Puente after the show. While Puente watches Dizzy put his trumpet in its case, an autograph hound asks the two road warriors where they are headed next, "China? The moon? I don't know," says Puente. "Just give me the longitude and the latitude," adds Dizzy. "And I'll get there."

MAN WITH A HORN—THE INDEFATIGABLE DIZZY GILLESPIE SYMBOLIZES JAZZ TO AUDIENCES AND MUSICIANS ALIKE

(By Francis Davis)

Though it's a touch grotesque, the artist Mark Diamond's hologram of Dizzy Gillespie is lifelike enough to halt you in your tracks as you hurry past the jazz club called Fat Tuesday's, on Third Avenue between 17th and 18th, in New York. Gillespie—white-haired even to the tuft under his lip and looking close to his present age of seventy-four—smiles and lifts his trumpet to his lips (it's that oddly designed horn of his, with the bell tilted up away from the tubing and valves). Then he swells his cheeks into enormous pouches and blows, his neck expanding too, before the movements reverse and he smiles again, this time as though acknowledging applause.

Gillepsie follows you into Fat Tuesday's, where there is a large poster of him to the far left of the bandstand. And on a wall opposite the bandstand at the Blue Note, a club a few blocks west and several blocks south, where I heard Gillespie perform with his quintet last year, there is a mural showing a much younger Gillespie in action with some of bebop's other progenitors, including Charlie Parker, on a similar bandstand in the 1940s.

At one point last year Gillespie seemed to be everywhere I looked. I saw him on TV with Johnny Carson, Joan Rivers, and Arsenio Hall (unlike most guests on their programs, he wasn't promoting new "product"—he was just being Dizzy Gillespie), and on the promos for "The Soul of American Music," a black music-awards show on which he appeared to be the token jazz musician. He even turned up last year in an issue of Bon Appetit, in which it was revealed that he once feasted on crocodile in Zaire and that the only thing he ever cooks at home is a breakfast of salmon with grits. In New York last June, I heard him at three different shows in one week, all presented as part of the JVC Jazz Festival. One of these was a tribute to Doc Cheatham, an indefatigable trumpeter twelve years Gillespie's elder. The others were memorials for Dexter Gordon and Sarah Vaughan, both of whom died in 1990, and both of whom made their first important records with Gillespie, in the 1940s.

Gillespie, exercising a monarch's no blesse oblige, also appeared, unbilled, at "Bebop, Forty and Under," a JVC program that I missed. The reviews indicated that Gillespie, the oldest man on stage by several decades, had set the pace for the trumpeters Jon Faddis, Roy Hargrove, and Wallace Roney on three numbers that climaxed the show, one of which was his own "A Night in Tunisia" (which he first recorded with Vaughan, in 1944, under the title "Interlude").

At the three concerts I did see, Gillespie appeared to be struggling with his intonation and reluctant to test his upper register, although he compensated by delivering savory, low-pitched blues licks behind the singers Joe Williams and Bill Eckstine at the tribute to Vaughan. Both this show and the one honoring Gordon were somber affairs, at which the mortality of the senior musicians on stage supplied an unstated theme. In contrast, the evening for Cheatham, though overlong and indifferently paced, teemed with unruly virtuosity—most of it supplied by Fadis and the trumpeters Wynton Marsalis and Ruby Braff.

Even so, whenever Gillespie moseyed onstage, he instantly became the center of attention, and the other musicians seemed to huddle around him, as if waiting for their cues. In the sense that this concert and the others during the week—including "Bebop, Forty and Under"—amounted to opportunities to take measure of the small gains won and the enormous losses suffered by jazz in recent years, none of them would have been complete without Gillespie's participation. At this point he symbolizes jazz to those who play it and those who listen to them.

Gillespie also symbolizes jazz to those outside that circumscribed orbit. His name isn't included among the things that E.D. Hirsch, Jr., thinks "literate Americans know," but then again, neither is Marlon Brando's. Lacking a hit single such as "Mack the Knife" or "Hello, Dolly," Gillespie isn't universally recognized and cherished the way Louis Armstrong was, and the likelihood is that no jazz instrumentalist ever will be. Still, with the recent death of Miles Davis, Gillespie is probably the only living figure from jazz whose name—reminiscent of a time when musicians as well as ballplayers were called things like "Dizzy," "Duke," and "Pee Wee"—rings a bell for most people. Gillespie is suddenly famous again, just as he was in the late 1940s, when bebop's virtues were being debated in the mainstream press and (as a glance at Richard O. Boyer's delightful 1948 *New Yorker* profile of Gillespie reminds us) the style was identified in the public imagination with such stereotypes as berets, goatees, dark glasses, Meerschaum pipes, Islam, and flatted fifths—that day's equivalents of baseball caps turned backward, "fade" haircuts, sneaker, hood ornaments worn as medallions, Afrocentricism, and DJ mixes.

Bebop's image has changed over the decades, and so has Gillespie's. In his youth he was regarded first as a rebel without a cause, on account of his antics as a big-band sideman in the late thirties and early forties, and then as a rebel with one, after his musical experiments and those of Parker and a handful of others gradually coalesced into jazz's first avant-garde movement. Today bebop is accepted on faith as classic even by people unsure of whether they've ever actually heard any, and Gillespie is venerated for having been one of its chief oracles, second in importance only to Parker, who died in 1955 and is therefore a phantom to us. Although the number of people able to name even one of Gillespie's tunes might be small, millions of newspaper readers and television viewers recognize that "bent" horn and those puffed-out cheeks.

What's missing from this image of Gillespie is what's unavoidably missing from that hologram of him in the window of Fat Tuesday's—The crackle of his music. Most accounts of Gillespie's career understandably dwell on his accomplishments in the 1940s, when every note he played was accepted as history in the making. But I happen to think that he reached his zenith in the early 1960s, a period in which he wasn't so much underrated (he has never been underrated) as taken for granted amid the clamor surrounding Ornette Coleman's free jazz, Miles Davis's and John Coltrane's modes, and Horace Silver's and Art Blakey's funk. This opinion is based, of necessity, on out-of-print records, such as Something Old, Something New, which featured what was arguably Gillespie's finest band, with the then very young pianist Kenny Barron and the saxophonist and flutist James Moody, and Gillespiana, an album-length suite written by the pianist Lalo Schifrin, Barron's predecessor in Gillespie's group. (One of several orchestral works commissioned by Gillespie around that time, in a futile attempt to beat Miles Davis and Gil Evans at their own game, Gillespiana has aged surprisingly well, and Gillespie still frequently plays its "Blues" section with his quintet.) Records, of course, can be misleading. But a friend of

mine, who heard Gillespie in nightclubs on numerous occasions during this period, confirms my impression that Gillespie was then topping himself nightly.

Gillespie was so much the compleat trumpeter that it was difficult to say which was more impressive—his ease in unfurling lengthy and rhythmically compounded phrases or the inflections he could squeeze out of one note. His high notes whistled, and he tossed off entire choruses above the staff. His low notes, when he held them, frequently sounded the way he does when pronouncing the name of his birthplace: "Chee-roh, South Carolina," spelled "Cheraw." (Although bebop was an urban phenomenon, it's worth considering that Gillespie and Parker, its pacesetters, grew up on or near farmland.) Filled with passing chords and other harmonic brainteasers, Gillespie's solos nonetheless had a rich sarcasm about them that immunized them against excess abstraction.

In jazz as in classical music, there are two types of virtuosity: the utilitarian and the utopian. The utilitarian—that of an Oscar Peterson or a Freddie Hubbard—leaves you feeling that you've just heard a musician unsurpassed at what he does. The utopian—that of Gillespie, Parker, Armstrong, Cecil Taylor, Sonny Rollins, and Art Tatum—momentarily persuades you that human knowledge has evolved to such an extent that nothing is impossible. There was nothing that could be done on a trumpet that Gillespie in his prime could not do, and nothing imaginable either rhythmically or harmonically that he hadn't seemingly already thought of.

Reviewers used to scold Gillespie for wasting so much of his time onstage joking around or playing Latin percussion, in an apparent effort to save his lip. But even though less effort is now expected of Gillespie (he is in his eighth decade, after all), he continues to circle the globe as though campaigning for James Brown's title "The Hardest-Working Man in Show Business." Following JVC, for example, he spent all but a few days of July playing concerts and festivals in Europe, Asia, and the Middle East. He practically lived on the road the rest of the year, appearing in both Brazil and California in a single week in September, and, between engagements in Tokyo and San Juan, spending just a few days at home with his wife of fifty years, Lorraine, in New Jersey during the Christmas holidays.

Gillespie spoke with me from a Monterey, California, hotel room in October. I asked him if he could envision a day in the near future when he would begin to take life easier. "You can't take it easy on the trumpet," he replied. "You have to keep at it all the time." He told me that he thought his sound was now "brighter" and "better" than ever before, as a result of a new mouthpiece that he acquired early last year.

But the melancholy fact is that Gillespie's prowess has diminished to the point where hearing him attempt to swap high notes with his protégé, Jon Faddis, at the Doc Cheatham tribute was like seeing the picture of Dorian Gray side by side with the still-unblemished Dorian. Virtuosity is as much mechanical as intellectual, and age delights in robbing virtuosos of the edge they took for granted. Doc Cheatham remains a marvel at the age of eighty-six, but his style never depended on fireworks displays, even when he was younger. Gillespie's did, and he is no longer able to light up the skies with any regularity.

Gillespie still surrounds himself with excellent musicians, however, and he still has his moments. At the Blue Note, where his group included Ron Holloway, an unheralded tenor saxophonist from Baltimore whose solos achieved that remarkable combination of angularity and heft which has long been associated with Sonny Rollins, I heard Gillespie play a blues full of wry shadings and comically deployed silences. It might have been lacking in the bravura that one used to expect from Gillespie, but it was a fine solo by any other conceivable measure.

Gillespie remains a prolific recording artist, and each of the three albums released by him last year has much to recommend it. On Bebop and Beyond Plays Dizzy Gillespie (Blue Moon R2 79170) he joins a Bay Area group led by the saxophonist and flutist Mel Martin for a batch of tunes either written by or associated with him. He even turns in an affecting vocal: Gil Fuller's beautiful "I Waited for You," a ballad that was written for and recorded by Gillespie's big band in 1946. Although the trumpet solos that catch the ear with their imagination and clean execution tend to be those Bebop and Beyond's Warren Gale, Gillespie is clearly the catalyst on this generally spirited session. The two tracks he sits out are run-of-the-mill, latter-day West Coast bebop.

In 1990 Gillespie starred in and wrote the music for Jose A. Zorilla's The Winter in Lisbon, a European film that only recently found an American distributor. To judge from the synopsis that Gillespie gave me during our telephone conversation, Zorilla's movie explores the same ground that Bertrand Tavernier's Round Midnight did. Gillespie plays a disgruntled black expatriate who forms a bond with a young white pianist who worships him. Apparently there's also a subplot involving the pianist's girlfriend, a gangster whose mistress she used to be, and a stolen painting.

The soundtrack was finally released last summer (Milan 731.38 35600-2), and the problem with it is the problem with most soundtracks: motifs reworked ad infinitum in the interest of dramatic continuity just sound repetitive when extracted from their miseen-scéne. But what makes this soundtrack well worth hearing are the selections featuring Gillespie with the pianist Danilo Perez, the bassist George Mraz, and the drummer Grady Tate, who prod triumphant salvos from him on "San Sebastan," and elsewhere encourage from him an uncharacteristic lyricism so intimate that even the notes he flubs seem fraught with meaning.

Perez, whose spacious chordal approach recalls that of Bill Evans, although his touch is more percussive, is also the pianist on Live at the Royal Festival Hall (Enja R2 79658), a London concert recording demonstrating the many virtues of Gillespie's United Nation Orchestra, the fifteen-member ensemble he has led part-time since 1988. The United Nation Orchestra—so named because it includes musicians from Cuba, Brazil, Panama, Puerto Rico, and the Dominican Republic—draws heavily on the classic tunes written (or co-written) by Gillespie which employ South American or Caribbean rhythms (his and Frank Paparelli's "A Night in Tunisia," obviously, but also such durable items as his calypso "And Then She Stopped" and his and Chano Pozo's modified rumba "Tin Tin Deo"). By so doing, this new orchestra begs comparison to the most fabled of Gillespie's big bands, the rough-and-ready one from the late 1940s which briefly included Pozo on congas and blended bebop with mambo and elements of Afro-Cuban ritualistic music. Although hardly as innovative as that band—or as talent-laden as the one Gillespie assembled for a 1956 State Department tour and managed to keep afloat for a year or so afterward (Lee Morgan, Phil Woods, and Benny Golson all did stints in it)—this new outfit is likably volatile, thanks in large part to the trombonist Slide Hampton's gutsy arrangements.

Best of all, because the band is well stocked with such animated soloists as the trumpeters Claudio Roditi and Arturo Sandoval, the saxophonists James Moody, Mario Rivera, and Paquito D'Rivera, and the trombonist Steve Turre, who also plays conch shells. Gillespie doesn't have to be the whole show, as he sometimes does with his small band (if only to leave his audiences feeling that they've gotten their money's worth). What with showcases for Turre and D'Rivera, plus one shared by the singer Flora Purim and the percussionist Airto Moreira, Gillespie doesn't even solo on every number. Sandoval, the band's high-note specialist, does what amounts to Gillespie's stunt work, and Moody—whose association with Gillespie dates back to the 1940s—subs for Gillespie in speeding through the celebrated break in "A Night in Tunisia." Sandoval, D'Rivera, and Morcira are one-trick ponies whose lack of subtlety works against them as leaders of their own small groups. But they sound terrific as featured attractions in Gillespie's genial musical variety show.

It's a pity that economy prevents Gillespie from touring full-time with the United Nation Orchestra. He has always displayed all the attributes associated with successful big-band leaders, including the often ignored one of showmanship. At several points in his career a big band seemed like the only format grand enough for him. It still does, if for different reasons. At this point a big band also serves the purpose of allowing him to take a well-deserved breather now and then.

DIAMOND DIZZY

(By Michael Bourne)

Editors' Note: In late February, Dizzy Gillespie suffered a severe flare-up of his diabetic condition requiring a short hospitalization in Oakland, Calif. Upon returning to his home in New Jersey, Dizzy had a medical checkup, yellow jaundice was diagnosed, and he was immediately admitted to the hospital. "Tests revealed he had an obstruction blocking his bile ducts," explained the Gillespie family physician, Dr. Arthur Grossman.

Gillespie underwent major surgery on March 12. "Since then," the doctor recounted, "Dizzy had to fight and conquer a series of setbacks, including severe anemia and a number of untoward reactions to some of his medication. This has been a very worrisome time. Now, finally, we see him approaching a full recovery. He has clearly amazed us all."

And when could John Birks "Dizzy" Gillespie be playing again? "He certainly needs to build up his strength first," said Grossman. "But now, I can happily predict Dizzy will be making a lot more music later this year and for many years to come."

While we wait to hear Dizzy play again, we have his thoughts on survival, soap operas, and Latin rhythms as told to Michael Bourne.

I've enjoyed Dizzy Gillespie all around the world, from New York to Berlin, the Hague to the Caribbean. That's where Dizzy lives—on the road.

In 1972 when Dizzy was gigging in St. Louis near the ballpark, Down Beat wanted an interview. Instead of something formal, we talked over lunch. I called the piece "Fat Cats At Lunch" and still remember what we

ordered: pepperoni-stuffed calzoni for me, beef tips with noodles for Dizzy. I was curious about the bebop revolution but Dizzy insisted that bebop was an evolution and that all music is one music. Dizzy also talked about the Bahai belief in the oneness of people.

Dizzy's faith in the Bahai religion became news that year. When next we bumped into each other, the 1972 presidential election was heated. Dizzy had been a perennial jazz candidate for president, and in interviews, even with tongue-in-cheeks, Dizzy was often quite serious about the problems of American life. But now he'd become a Bahai and the faith prohibits a follower from involvement with politics. I reported Dizzy's withdrawal in DB and the story was quoted in other media as if it was George Washington's farewell.

It seemed only natural—with another election forthcoming and with Dizzy about to embark on a yearlong 75th birthday celebration around the world—that we come together again in these pages. Dizzy was playing a month with friends at the Blue Note in New York—according to Dizzy, the longest gig he's ever played in one place as a bandleader.

Dizzy was already feeling pooped, even before the exhaustive touring that was scheduled; South America, South Africa, Japan, back and forth to Europe, and around the States, with the quintet or the United Nation Orchestra, with Miriam Makeba or the MJQ, an all-star birthday cruise of the Caribbean, a climactic weekly at Lincoln Center, all the while with interludes as artist-in-residence at Queens College. If he wasn't playing, he was being interviewed or filmed or photographed or otherwise lionized. It's what happens when an artist becomes an artifact.

That very week we talked, Dizzy appeared in newspaper cartoons, a goat on CBS TV's Northern Exposure was named Dizzy, a Saturday Night Live gag showed stars alleged to have silicone implants—Cher, Dolly, and, with cheeks ballooned, Dizzy—and the Eurothriller Winter In Lisbon, with Dizzy playing on expatriate jazz legend, opened in New York.

We didn't have a chance for lunch again but I expected that we'd at least enjoy cigars together. I'd often given Dizzy cigars and offered some superb Dominican handrolls.

Dizzy Gillespie: I quit smoking the day Miles died. I just decided to quit. I haven't had a smoke since then.

Michael Bourne: And you can get all those great Cuban cigars!

DG: And people give me boxes!

MB: One of the most memorable times of my life was when we smoked a reefer and watched As the World Turns. I'll never forget you telling me who was who and shouting at the TV when something had happened.

DG: [laughs] I just saw some of the people from As The World Turns the other night.

MB: Do you still watch?

DG: Not too much. I watched it for 27 years.

MB: How come you never guested on the show?

DG: It was mentioned. I don't know why it never happened. They've visited me. I was doing a show at CBS and all of them came over. I went down to the set and watched them.

MB: If you were a guest, what would we rather have happening while you're playing, sex or murder?

DG: [laughs] Murder! Or somebody taking somebody's wife!

MB: The film Winter in Lisbon is not the first time you've acted.

DG: I've done a lot of small parts. Do you know Faith Hubley? John Hubley? I made a short for them called The Hole with George Matthews. Do you remember him? He wore a derby hat and had a cigar in his mouth all the time. He was a gangster in a lot of films. The Hole won the Academy Award that year [1962]. It was a cartoon. We were underground. We were talking about the situation in the world, nuclear weapons and things. This ground hog bites into a cord from a nuclear station. This guy and I were talking. We didn't have a script. We talked about everything, and I was dancing!

MB: One of the most dramatic scenes—only dramatic scenes—in Winter In Lisbon is when your character sits at a piano and talks about why you left America, about racism and drugs, and that people don't understand the pressure that killed Charlie Parker and Billie Holiday. How much of that was scripted?

DG: None. I just started talking. . . . One of the things that wasn't too good about playing in the movie, except for playing on the soundtrack, was that I wasn't playing my horn. They wanted a straight horn.

MB: What was harder? Learning lines or playing a straight horn?

DG: Learning lines!

MB: One of the things your character says is that you have more dead friends than live friends. Many musicians left the country. Many musicians died. How have you survived against the things that have crushed others?

DG: They just weren't as strong as I was. I've seen a lot of things happen that washed musicians off the scene. It's a pity that so many musicians died.

MB: You were born the year of the first jazz record, 1917. You've lived through the whole history of recorded jazz.

DG: My first record was "King Porter Stomp" with Teddy Hill.

MB: It's very different recording nowadays. Does the new technology interest you?

DG: Not much. I don't use all these different means of recording. They've got a machine in Japan, you can record right on the job and you get a sound you never heard before. It sounds live. I like that.

MB: You've been traveling 50 years. What do you enjoy most about the road?

DG: You meet a lot of friends that you wouldn't see otherwise. I don't think I'd spend money to go to Paris or London, but when you're working you go and see your friends.

MB: When you're on the road, are you able to enjoy where you're at?

DG: There are different places. There's a beach in Minnesota that I like and used to go to. There's a lot of things you can do in Florida, a lot of things you can see in New Orleans, San Francisco. Libraries give me a great sense of knowledge. I get books. I've spent a lot of time reading.

MB: Where overseas have you enjoyed most?

DG: Beirut when it was Beirut. I've been so many places. I like Spain, Portugal, I like Japan.

MB: Where have you not played?

DG: China. I'd like to go there if they'd offer me a job.

MB: What do you like to eat the most on the road?

DG: I can't say! [laughs] I like German food, French food, Italian food. I have kippers for breakfast every day in London. The moment you know you're going somewhere you start thinking about what you're going to eat. My stomach starts sticking out!

MB: Do people around the world feel the same about jazz?

DG: Music travels. Music goes on. I don't think there's that much that's changed in the tastes of people.

MB: Is the audience overseas more enthusiastic for jazz than the audience at home?

DG: Not necessarily People in America, they like the music. But they like rock & roll more than jazz. They put out more money for rock & roll.

MB: When you first played bebop it was very different.

DG: And there wasn't much money involved!

MB: But now your music is the mainstream.

DG: It just happened that it moved up to the front. There's more appreciation now than there was in the beginning.

MB: What are your best memories of Miles?

DG: We didn't see one another too much. He didn't call me much unless he wanted something. He didn't call to say, "Hey, what's happening" like we used to talk in the early days. . . . Miles' music was very powerful. He cold play a note, like a C that's coming later but it's not there yet, but he'd play it and hold it and you'd feel it, and when it finally comes you [sighs]. He knew a lot of music. I knew him when he didn't know that much. He didn't know piano. He'd come to learn piano with me. He'd come to my house with a record and say, "That note! What is it?" I'd take him to the piano and play a chord and say, "Boom! There it is!" He couldn't understand where the notes came from. But he went to Julliard and learned from a lot of people, like all of us did.

MB: When we talked 20 years ago you said the evolution of jazz was like the evolution of religion, that Moses to Jesus to Mahammed to Baha'u'llah was like Louis Armstrong to Roy Eldridge to you and Miles. Who do you feel you've passed the torch to?

DG: I don't get a chance to hear too many young trumpet players. I like Wallace Roney. He played a whole week with me in Washington. I heard a trumpet player down South. He went to that school with the marching band where they run real fast and play [Gramblin]. These guys run hard! I don't know how they do that! If I move, my mouthpiece will move. I heard him at the very famous restaurant in Harlem [Sylvia's]. He was in his 30s. He was really doing it. He learned all that stuff in the marching band. I don't remember his name. [ed: Bill Kennedy] I had a long conversation with him. 3

MB: It must be heartening that so many young musicians have come along.

DG: When you realize the music is in good hands, it's okay. "Go ahead! Y'all got it!" They've studied. It's very good for music.

MB: What words of wisdom do you have for these young musicians?

DG: There were guy like Dud Bascomb who laid a good foundation for trumpet players. Kenny Dorham. Fats Navarro, Miles. There are a lot of trumpet players who really contributed to this music. I don't think the kids have anything to worry about. Just listen to these guys and be impressed by them . . . . it's been so long since I was young enough to realize what I needed to advance myself musically. It's always difficult to know what guy should study most to be a good musician. Piano for the first thing! To learn the keyboard and to pick out your own things and resolution, going from here to here to here, that is very important. But they've got that together. These young musicians are something else.

MB: You've said that the future of the music is in the rhythms of the tropics.

DG: That's something for young musicians to learn about, the rhythms of Cuba, Brazil, the West Indies. Then they should go to the Indians, over in India, and have a whole melange of music.

MB: Jazz is usually in 4/4 but Latin rhythms are not.

DG: When the Cubans came to the United States they came up here with 3/8, 6/8, 3/4, 2/4. It was very difficult for us to read that music. We were always playing 4/4. We didn't do much with 2/4. We played waltzes in 3/4, Cuban music was difficult to play because they didn't have a bass drum to keep you together. When I go to play at the Village Gate on Monday nights [for Salsa Meet Jazz]. I have to get myself together. You don't have a bass drum to go by. They don't pat their foot. You can get lost. Even when you're playing you can get lost.

MB: How do you keep from getting lost?

DG: I found out what they were doing without our bass drum and I learned to play it. I learned how to play the conga. That helped a lot. And I danced the music, too! That was important. I could do the mambo, the cha-cha-cha, all those dances. I won a prize at the Palladium!

MB: You came from a time when jazz was dance music, but bebop was art music. People couldn't dance to it.

DG: I could dance to it!

MB: Is that a fundamental of music, that you can dance to it?

DG: It helps.

MB: George Bush is up and down in the polls and no Democratic candidate seems electable. Isn't it time for your Presidential comeback?

DG: I can't. My religion won't allow me to participate in political activities.

MB: When you were a candidate you were very concerned about racism. Is life any better now?

DG: A little. You can go to a restaurant and eat now. You can go to the toilet and not be afraid. We can get rooms at the hotel. We used to have to go to the kitchen to eat. . . . People definitely get along better than they did years ago.

MB: Is jazz something that's brought white people and black people together?

DG: One of the reasons, yes. [laughs] to play the music, white guys have to get together with colored guys or else they don't play!

MB: Is there an actual medical term for what happens with your jowls when you play?

DG: Gillespie Pouches. There's a doctor at Walter Reed, the hospital where our presidents go, and he said, "Mr. Gillespie, if you'll have some photos taken of you jaws with your cheeks extended I'll name them Gillespie Pouches." I went to the hospital and they took X-rays and everything."

MB: Is it unique to you?

DG: Africans can do it. I saw a guy in Casablanca and his jaws were as big as mine!

MB: What are you looking forward to the most as you travel the world for your 75th birthday?

DG: Nothing too much. I'm satisfied.

MB: Being 75 is just another gig?

DG: [laughs] Yeah!

THE CANDIDATE MEETS THE PRESS—PRESIDENTIAL CANDIDATE JOHN BIRKS GILLESPIE VIEWS AFFAIRS OF STATE WITH JAUNDICED—AND JOLLY—EYE

Editors' Note: In honor of elections past, present, and future, we reprint the following from DB, Nov. 5, '64.

As the hustle on the hustings continues up to election day, with Democrat and Republican decrying one another's policies and impugning one another's honor and worse, John Birks (Dizzy) Gillespie plows his own political way in his race for the Presidency of the United States.

The 47-year-old trumpeter from Cheraw, N.C, is pursuing his political campaign, offering several solid planks: intelligence and humor about the whole business of running for office, sincere dedication to the principles of Negro rights and the fight to win them fully, and lots of the best jazz there is.

Q: In your campaign, do you have any specific criticisms of the platforms of the two major parties? If so, what are they?

A: First things come first. First, civil rights. I think that some of the major civil rights groups are on the wrong track. The real issue of civil rights is not the idea of discrimination in itself but the system that led to the discrimination. Such as the schools—the teaching in the schools. They don't teach the kids about the dignity of all men everywhere. They say that there should be education. Okay, I say education, yes, but the white people are the ones who should be educated into how to treat every man. And the system of discrimination started during slavery time—with the slaves—it's an economic thing. Of course, we don't have that slave system at the moment, but we do have something in its place, such as discrimination against people economically.

Economics is the key to the whole thing. For example, if all of my followers said that we weren't going to buy one single product for three days, think of what would happen to the stock on that one product on the stock market in one day. If it would drop drastically—boom! They would hurry up to protect the investors; they would hurry up to rectify a gross injustice. . . .

The other thing is about the income-tax situation. There are certain elements in our society that have better breaks on the income-tax situation than others. I say we should make "numbers" legal. A national lottery for the whole country. All that money would go to the government. Do you realize that millions and millions of dollars a day are taken in "numbers" (which is illegal). Everybody is a gambler. When you come here on earth, you gamble whether you want to live to see tomorrow. So they should channel those virtues in the right direction.

Q: We've been hearing so much for the last six months or so about the so-called white backlash. Do you have any comment on that?

A: Yes, In the first place, the people who are affected by the white backlash, we haven't had them anyway. See? If we are going to judge how to treat a human being by a bunch of hoodlums' riots in certain places, well, we don't need them anyway. I have that much confidence in the integrity of the American people that we have enough to really do something about the situation. So the ones who are affected by the backlash—shame on 'em. We never had 'em anyway.

Q: Could we have your comments on the two candidates of the major parties and their programs? First, Sen. Barry Goldwater.

A. I think his program stinks. I think the senator's program is ultraconservative; I think that Sen. Goldwater wants to take us back to the horse-and-buggy days when we are in the space age. And we are looking forward, not backward. President Johnson? He's done a magnificent job.

Q: In what area?

A: In the area of civil rights—for what he has done and with the backing he has. But I'm sure that if I don't get to be President—which I hope I shall—then I think that President Johnson would make a much, much, much better President than Mr. Goldwater.

Q: We're in an era in which we are told only a millionaire can be President. Are you a millionaire? [laughter]

A: Not by any stretch of your imagination. I remember some years ago when I was in Paris, I saw a headline on one of the tabloids—the New York Mirror—which is presently defunct, and it said in the headline: Bebop Millionaire In Trouble. . . . This was preposterous because at that time I didn't know one bebop musician who had two quarters to rub up against one another.

Q: Seriously, how important do you consider a lot of money is in political campaigning?

A: I understand Gov. Rockefeller. . . . There will be a moment of silence when I mention that name. I understand that he spent in the primaries alone almost $2,000,000 or something like that.

But I look at it this way: suppose I were a millionaire. (That's a very far-fetched idea.) And suppose there was a guy in trouble someplace, and I say, "Here's $10,000"—with the television camera on me, and the radio—$10,000 clear. [Then] if I were a poor man, say, making $75 a week, and I see a guy who's ragged and doesn't have any shoes on and his clothes are in tatters, and I walk up to him and I say, "Come here." And I go to a secondhand store and buy him $6.79 worth of clothes. My idea of that is, I've done more by giving this guy this little gift. I call it having a respect for, and having a big heart for, the little guy.

Q: If you were to pick a vice-presidential running mate, who would it be? Or have you done so already?

A: I was thinking of asking [comedienne] Phyllis Diller. She seems to have that sua-a-a-a-ve manner; she looks far into the future. She's looking into the future. So I'm a future man, I said to her.

Q: Have you approached her?

A: I sent one of my emissaries. I sent one of my emissaries to sound her on that. I understand that she is for it. She was going to vote for me, anyway, so she'd just as well get in there and work.

Q: What about your cabinet? Who would you select for cabinet officers?

A: In the first place, I want to eliminate secretaries. In French that would be feminine gender, and we don't want anyone effeminate in our form of government, I'm going to make them all ministers.

Minister of foreign affairs: Duke Ellington.

Minister of peace: Charlie Mingus. Anybody have any objections to that? I think it would get through the Senate. Right through.

Minister of agriculture: Louis Armstrong.

Q: Why?

A: Well, you know he's from New Orleans; he knows all about growing things.

Ministress of labor: Peggy Lee. She's very nice to her musicians, so * * * labor-management harmony. It's harmony between labor and management.

Minister of justice: Malcolm X. Who would be more adept at meting out justice to people who flounted it than Malcolm? Can you give me another name? Whenever I mention this name, people say, "Hawo-o-o-o." But I am sure that if we were to channel his genius—he's a genius—In the right direction, such as minister of justice, we would have some peaceful times here. Understand?

Ministress of finance: Jeannie Gleason. Ralph Gleason's wife. When she can put the

salary of a newspaperman—you know it's not too great, you have to pinch here and there—when she can keep that money together, she's a genius. So I'm sure that she would be able to run our fiscal policy.

My executive assistant would be Ramona Swettshurt Crowell, the one who makes my sweatshirts.

Minister of defense: Max Roach.

Head of the CIA: Miles Davis.

Q: Why?

A: O-o-oh, honey, you know his schtick, He's ready for that position. He'd know just what to do in that position.

All my ambassadors: Jazz musicians. The cream.

Gov. George C. Wallace: Chief information officer in the Congo * * * Under Tshombe.

We would resume relations with Communist Cuba.

Q: Why?

A: Well, I've been reading the newspapermen who were invited to Cuba to look at the revolution there. * * * It seems Premier Castro wants to talk about reparations. But he wants to talk about it on a diplomatic level, which means respect. I am a man to respect, to respect a country, Cuba, regardless of their political affiliations; they are there, and there's no doubt about it.

And I was reading in the articles that they'll be there a while. So I would recognize that we send an ambassador, in an exchange of ambassadors, to Cuba to see if we can work out this problem of indemnity for the factories and things that they have expropriated. I think that any government has that privilege of nationalizing their wealth. It's theirs; it's just theirs. So if they want to pay for it. * * * Of course, we built it up, we were out there; it wasn't our country in the first place. But since they built it up and Mr. Castro wants to pay you for it, I think we should accept the money with grace.

Q: What about Communist China?

A: I think we should recognize them.

Q: Why?

A: Can you imagine us thinking that 700,000,000 people are no people? How much percent is that of the world's population? I think we should recognize them. Besides, we need that business. We're about to run out of markets, you know. All of a sudden you wake up and there's 700,000,000 more people to sell something to. And jazz festivals. Can you imagine: we could go to China with a jazz festival and spend 10 years there at jazz festivals. We'd forget all about you over here. We'd send back records.

Q: We're very deeply involved in Viet Nam: what would be your policy on this situation?

A: We're not deeply involved enough in Vietnam. I think we should either recognize the fight or take a chance on World War—is it three? There's been so many. Either do it, or get out of there. Because every day American soldiers are walking around and—boom!—out, finished, kaput. They're being killed, and they don't even know hardly that they're even at war. We haven't declared war. so I think we should really either straighten it out—and we have the means to do that—or get out of there. I think we should do it or don't do it. But if I were President, I'd get out of there. I'd say, look, y'all got it, baby. Yeah, good luck. I'd get American soldiers out of there.

Q: As one of our most prominent musicians you are aware that automation has played the devil with musicians' livelihoods. What would your policy be on automation.

A: Automation will never replace the musician himself. We would have to set up some kind of a thing to protect the musician from that. There's a bill in Congress now—oh, it's been up for a long time; I get letters from ASCAP and my Society for the Protection of Songwriters; writing letters to senators to get them to vote for this bill—to make them give us part of that money that's going into jukeboxes. As soon as the jukebox operators find out that you have to pay some money out there, a nice little taste of money, they'll start hiring live musicians again, I think. Instead of having the jukeboxes there, they'd hire some musicians.

Q: What do you think the role of the musicians' union should be in this regard?

A: Aw, the musicians' union! Why did you bring that up? Is this for publication? It is? Ah, the rule of the musicians' union—it has been very lax in this space age. They have wallowed in the age of the horse and buggy and the cotton gin. I don't think they're doing a very good job. All they're doing is taking the money.

Q: In a recent interview, Duke Ellington said that from his personal standpoint he didn't agree with subsidies for his music. What should your attitude as President be toward federal subsidies for the arts, particularly music?

A: We need subsidiaries for the arts. I'm a firm believer in that. Since jazz is our prime art, that should be the first thing we should subsidize.

Q: How about a civil-service night club?

A: Now, that's a good idea. A civil-service night club. That'd be nice....

Musicians should be on the production end of jazz. Like [drummer] Shelly Manne is here in Hollywood. He's a musician who's on the production end of it, and I'm sure that the atmosphere in his club is different from any club in the country because he thinks like a musician. Just think of an organization of musicians who would dictate the policies of clubs where you play: "Say, look, you've got to have a piano that's in tune—that's 440—and lights and maybe little stairs going here and going there." Musicians got some ideas. I imagine if you'd turn them loose on ideas of what kind of people they should have in the clubs and how best they could present that music to people, then all of us would benefit by it because all of us would be doing it.

Q: If your opponents in the presidential race start any mudslinging...?

A: Oh, that's different. A political campaign is something altogether different. And then afterward, you kiss and make up.

Q: Goldwater, too?

A: I don't think we would be on too good terms, not on kissing terms anyway.

INTRODUCTION OF THE AMERICAN HEALTH SECURITY PLAN ACT OF 1992

HON. THOMAS H. ANDREWS

OF MAINE

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 12, 1992

Mr. ANDREWS of Maine. Mr. Speaker, I rise today to introduce legislation that provides universal access for all Americans to basic health care services and long-term care services.

AMBASSADOR JOSEPH VERNER REED

HON. EDWARD F. FEIGHAN

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 12, 1992

Mr. FEIGHAN. Mr. Speaker, I want to share with my colleagues the remarks of Hon. Ambassador Joseph Verner Reed, Under Secretary General of the United Nations at the ceremony to receive the Order of Civil Merit from the Kingdom of Spain presented to Ambassador Reed by Ambassador Jaime De Ojeda Y Eiseley of Spain.

Ambassador Reed has served his country and President with distinction as United States Chief of Protocol and United States Ambassador to Morocco from 1981 to 1985. Ambassador Reed previously served as Under Secretary General for Political and General Assembly Affairs at the United Nations—then the highest ranking American in the Secretariat. Ambassador Reed's remarks regarding Spain's contribution to the development of Western civilization are truly appropriate.

REMARKS BY AMBASSADOR JOSEPH VERNER REED

I am honored by this extraordinary gesture of His Majesty King Juan Carlos I to receive the Great Cross of the Order of Civil Merit.

It has been my privilege to know Their Majesties King Juan Carlos and Queen Sophia for nearly three decades. Our paths have crisscrossed and I treasure their friendship. I rejoiced with His Majesty on his coronation in 1975. I have admired his leadership in bringing Spain into the forefront of the nations of Europe and, indeed, the entire world. I salute His Majesty King Juan Carlos I of Spain.

The King, supported by the elegant Queen Sophia, has demonstrated firmness and a dynamism that are unwavering. I marvel at their stardom. Their royal mission is luminous and performed with supremely modest grace.

This dinner is a celebration of Spain and takes place on the eve of the opening of EXPO '92 in Seville which promises to be the most spectacular world exposition ever, and a brilliant showcase for the New Europe.

THE AGE OF DISCOVERY

This year we celebrate the 500th anniversary of the Great Admiral of the Ocean Sea's momentous discovery of what we now call America on October 12, 1492. (Christopher Columbus sailed from the port of Palos in Andalusia.) Some, claiming to speak in the name of the earlier peoples who came to our continent, have said that Columbus and his successors brought exploitation, disease and European dominance, and that there is no cause for celebration. Others have complained that the Christian religion unjustly supplanted local observances and destroyed rich local customs. On this special evening, I do not feel called upon personally to comment on these and other criticism.

Whatever: that landfall half a millenium ago signalled the end of the old world order. The achievement of this remarkable mariner was a high point in the process of exploration, adventure and cultural interchange that had been going on since man's earliest history. He, and the men and women of his time, changed history and shaped our world.

Beyond the achievement of Christopher Colombus, new and exciting developments in

navigation and cartography were already ushering in the global age. The great voyage of circumnavigation undertaken by Ferdinand Magellan, who flew the Spanish flag with his fleet of five vessels[1] in 1519, confirmed that henceforth the entire globe would be the canvas on which man would attempt to paint his masterpiece.

The planet would come to appreciate that, as a result of Spanish initiative, we have a common destiny and a common challenge. The final realization came when the Apollo astronauts sent back to us earthlings the first live television pictures showing the far-off images of our small blue orb floating in the vast and endless sea of space.

LAND OF IMPOSSIBLE DREAMS

Spain—a nation of many different facets.

Madrid—the great capital: the city the United Nations has described as the "Messenger City of Universal Peace".

Spain—a nation of contrasts: nature, arts, traditions, people; the combined hold unexpected beauty and interest.

The great poet, Federico Garcia Lorca, described and immortalized his city of *Granada* with these lines * * *

"THE CITY OF DREAMS"

The colour of silver and dark green, and the
Sierra, kissed by the moon, is an intense turquoise.
The cypress trees are awake and swaying
languidly, flattering the air
and the wind turns Granada into an organ,
its narrow streets serve as pipes. Granada was a dream of sound and colours.

IMAGES

The Alhambra, Cervantes' immortal Don Quixote, the Costa Brava, the Prado, El Greco (Domenikos Theotokopoulos), flamenco, Seville, the Valencian "paella", Goya, gazpacho, the torero who plays out the "National Ceremony", the sherries from Jerez and the moscatel from Málaga, the Gaudí style, Velásquez, Toledo, the Costa del Sol, the universal painter of our times, Picasso from Málaga. And there is Cordoba, the Constantinople of the West, where time has stood still. All these images are a kaleidoscope of the crown jewel of the Iberian peninsula. I have stood in wonder at one of the sights of the world * * * from the Sierra Nevada across the Pillars of Hercules to the coast of Europe's sister continent, Africa. These faces of Spain mold to create the mystery and majesty of this extraordinary people, land, and civilization.

Mr. Ambassador, I thank you for offering this splendid evening of celebration and friendship on behalf of His Majesty King Juan Carlos I.

Spain and the United States are partners for progress. It has been my privilege to have worked for Spanish-American relations and their improvement during my tours at the United Nations and in Washington.

You, Sir, are a great diplomat. Since your arrival in Federal City, you have unleashed your skills and talents within the public and private sectors. You have championed the cause of Spain. The bilateral relationship between Spain and the United States has flowered due to your energy, style and indeed, distinction. I applaud you as a diplomat and appreciate you as a friend.

[1] His flagship, *Victoria*, was the first to circumnavigate the globe, returning to Spain in September 1522 with 18 of the 265 man crew.

PARENTS AS TEACHERS PROGRAM

HON. RICHARD A. GEPHARDT

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 12, 1992

Mr. GEPHARDT. Mr. Speaker, I rise today in strong support of the authorization of the Parents as Teachers (PAT) program in the Neighborhood Schools Improvement Act. This program will be of enormous benefit to the thousands of families who will be enabled to participate.

I'd like to commend Representatives WHEAT and CALLAHAN for their commitment to passage of this legislation. I especially would like to recognize Mrs. Mildred Winter of St. Louis, founder of this program, who is to be commended for her tireless work and dedication to this effort.

In 1984, Missouri became the first State in the Nation to mandate parent education and family support services, beginning at the child's birth, in every school district. The origin of this mandate dates back to 1972, when the State Board of Education adopted a position paper on early childhood education.

The State Board's position was rooted in research of the 1950's and 1960's indicating the critical nature of the first 3 years of life in the development of basic abilities that enable children to learn and succeed throughout their lives. This is also the time when parents are forming their approaches to child rearing. Studies of early intervention programs initiated in the 1960's showed parent involvement in their child's learning to be key in the child's success.

In 1981, the Missouri State Department of Education convened a statewide conference to consider the importance of supportive services to children under the age of 3. From the research presented at the conference came the conceptual framework for a Parents as Teachers Program for families with children birth to age 3.

With funds from a number of public and private sources, the pilot program was launched among four Missouri school districts in 1981. Results of the evaluation confirmed the benefits of the project. At age 3, participating children were significantly more advanced in language development, ahead of their peers in problem solving and other intellectual abilities, and advanced in demonstrating coping skills and positive relationships with adults.

A follow-up study conducted in 1990 indicates that the children who took part in the original project were significantly ahead of their peers 4 years later in first grade. The study also showed that mothers and fathers who participated in the program had continued to play a more active role in their children's education than other parents. These findings confirm the long-term value of Parents as Teachers for children, parents, and schools.

The proven success of PAT is evident in the widespread interest it has received from around the world. The program has been replicated in 36 States outside Missouri as well as England, Australia, and New Zealand. Currently, Parents as Teachers has been initiated in 350 sites outside Missouri. In 1987, to keep up with the number and scope of requests, the Missouri Department of Education established the PAT National Center in cooperation with the University of Missouri-St. Louis.

The results of Parents as Teachers speak for themselves. This cost-effective, internationally acclaimed program strengthens family bonds and prepares children for learning when they arrive on their first day of school. Enactment of today's legislation will ensure that many thousands more of our children benefit in the future. I urge that it be funded at the full authorization level.

THE 100TH ANNIVERSARY OF THE OVERTHROW OF THE KINGDOM OF HAWAII AND TO APOLOGIZE TO THE NATIVE HAWAIIAN PEOPLE

HON. PATSY J. MINK

OF HAWAII

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 12, 1992

Mrs. MINK. Mr. Speaker, January 17, 1993, will mark the 100th anniversary of the unlawful overthrow of the Kingdom of Hawaii. This tragic event, contrived by U.S. businessmen and representatives of the U.S. Government for their own gain, marks the day that the native people of Hawaii forever lost their sovereignty and were forced to live under a government that was no longer their own or of their choosing.

Today, I join my colleague from the State of Hawaii, Representative ABERCROMBIE, in introducing a resolution to recognize this historic day, the 100th anniversary of the overthrow of the Hawaiian monarchy, and to apologize for the fundamental injustice committed to the native Hawaiian people by this unlawful act.

Mr. Speaker, many of our Nation do not know much of the history of the native Hawaiian people. They lived in their secluded island kingdom in a highly developed, self-sufficient society for many years before the arrival of foreigners. Their monarchy, a kingdom recognized as a sovereign nation by the United States and innumerable European and Asian countries at the time, was governed on the values and traditions of family, community, hard work, and reverence for the land.

The natural graciousness of these friendly people, however, was little match for the U.S. Government, which knowingly participated in the overthrow of this lawful Hawaiian Government. Against the wishes of the people of Hawaii, U.S. armed naval forces invaded the tiny island state; imprisoned the ruling monarch, Queen Liliuokalani; seized the crown lands; and brandished its might in the face of any resistance by the alarmed and indignant populace.

Today, the native Hawaiian people are among the most impoverished in our Nation. Much like the native American Indians, they suffer from neglect, alienation from their land, and the lack of self-determination in a wider society of rapidly changing social and economic circumstances. Native Hawaiians have the highest poverty, unemployment, and school drop-out rates in our State and the lowest health indices in the entire country.

Despite repeated attempts by the Congress and former administrations, the native Hawai-

ians have never been fully compensated for the injustices committed against them. In 1920, through the efforts of Prince Jonah Kuhio Kalanianaole, the Congress passed the Hawaiian Homes Commission Act, which reserved 200,000 acres of former crown lands for the use of native Hawaiians. But like the reservation lands demarcated for the American Indian tribes, these lands in Hawaii were amongst the least desirable, in remote areas, and usually difficult to develop into housing or farm lands.

In the last several decades the Congress passed a series of legislation to help native Hawaiians achieve economic and social self-sufficiency. These programs provide assistance in education, health, housing, and economic development.

However, these programs have been under constant attack by the Reagan and Bush administrations, which now refuse to acknowledge that the U.S. Government has a trust responsibility for the health and well-being of the native Hawaiian people.

The Bush administration shamelessly denies that Federal funds should be used for the benefit of the native Hawaiian people, despite specific language in previous legislation relating to these initiatives. Every year, the President's budget eliminates funds for native Hawaiian health care, education, housing, and other programs.

Mr. Speaker, it is time for the U.S. Government to formally acknowledge its unprecedented wrongdoing 100 years ago, to apologize to the native Hawaiian people, and to reconfirm the trust relationship between the U.S. Government and the native Hawaiian people by voiding all attempts to undermine Federal assistance to native Hawaiians by the present administration.

This bill is the first step toward the recognition of the responsibility of the U.S. Government to the native Hawaiian people, whose country, properties, and dignity were taken without just compensation. And this bill is an important symbol by the Congress to atone for the consequences visited upon native Hawaiians by the unlawful and immoral overthrow of their beloved monarchy.

IN REMEMBRANCE OF CATHERINE RICHTER

HON. PHILIP M. CRANE

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 12, 1992

Mr. CRANE. Mr. Speaker, my father always counseled us as children to be givers in life, not takers. "Put more into this life than you take out of it," he admonished.

I have tried. But one who absolutely succeeded was the late Mrs. Catherine "Kitty" Richter. I first met Kitty almost 30 years ago when she worked as Vice-President of Communications Research, Inc. in Greenwich, CT.

She was a thorough researcher, a compassionate friend, devoted wife, deeply religious, and a staunch defender of the traditional values that made of the United States the "shining city on a hill."

All of us who were enriched by knowing Kitty lament her passage. But she pulled her tour of duty with grace and distinction. Our hearts go out to her husband, William C. Richter, her family, and friends. We will miss her presence, but her impact on the lives she touched will endure.

A CONGRESSIONAL SALUTE TO SERGEANT DONALD W. KNIGHT

HON. GLENN M. ANDERSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 12, 1992

Mr. ANDERSON. Mr. Speaker, Saturday, June 27, 1992 marked the retirement of one of the Los Angeles Police Department's finest officers, Sergeant Donald W. Knight. On Friday, August 28, 1992, The Department will honor Don with a service retirement dinner. It is with great pride and pleasure that I rise today to pay tribute to this exceptional individual who has served our community with great distinction.

Born July 25, 1941 in San Pedro, California, Don attended local elementary and secondary schools until his family relocated to Payallup, WA. Following graduation from Payallup High School, Don attended Lutheran University and received an A.A. in Police Science. By 1963, Don had returned to San Pedro and entered the Police Academy. Don's long and illustrious career with the L.A.P.D. spans 29½ years. He has served in the Harbor Patrol Division, the Hollenbeck Patrol, the 77th Street Patrol, and in 1969 became a Detective with the Harbor Division. In 1971, Don was made Harbor Patrol supervisor and by 1976 he was promoted to assistant watch commander of the Harbor Patrol. During this time, Don was also officer in charge of the Vice Unit. In 1984, Don received the exciting and extremely challenging post of Harbor Olympic Games coordinator. His final career move was as liaison to Harbor Court in 1988.

In addition to his demanding duties as a Sergeant in the L.A.P.D., Don has always made a special effort to volunteer his time and talents to a variety of community activities. He is a member of the San Pedro Christmas parade committee, the director of the San Pedro fishermen's fiesta, and a coach of local Little League baseball teams. His hobbies include fishing, camping, and traveling. Recently, Don and his wife of 29 years, Donna, purchased a trailer and their plans are to enjoy Don's retirement by touring the country.

Mr. Speaker, on this most deserving occasion, my wife, Lee, joins me in extending this congressional salute to Sergeant Donald W. Knight. We wish Don, his wife, Donna, and their children, Kenneth and Kimberly, their children's respective spouses, Christine and Michael, and their grandson, Steve, all the best in the years to come.

IN HONOR OF ROBERT A. HAGLER

HON. FORTNEY PETE STARK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 12, 1992

Mr. STARK. Mr. Speaker, I rise today and ask my colleagues to join me in honoring Mr. Robert Hagler, who retired as superintendent of the Castro Valley Unified School District on July 1, 1992 after more than 40 years in education.

Mr. Hagler has been a leader in educating thousands of students in my district as well as a leader in community service. He is a member of the Castro Valley and Pleasanton Rotary Clubs and has served the Tri-Valley YMCA as president and longtime member. He is a past president of the Alameda County Industry Education Council, travel tour leader with the California Farm Bureau, former member of the Western Association of Schools and Colleges, and past president of the East Bay Athletic League. Bob has not missed a Dublin-San Ramon Lions Club meeting in 8 years—I wish our committee hearings were as well attended.

In 1950, Robert Hagler began as an instructor at St. Mary's Elementary School and started a journey that has made him a part of the lives of so many young students and athletes. He has taught at St. Mary's High School in Berkeley, St. Mary's College in Moraga, and served as principal of both Amador and Dublin High Schools. Since 1984 he has been the superintendent of schools and will continue in that position until the Board of Education can find a successor—not an easy task.

As we continue to debate the fine points of education policy, Mr. Speaker, let Congress and every State legislature not lose sight of the individuals who give their lives to teaching and making our schools work. It takes dedicated educators to make the difference in our children's future. I applaud Robert Hagler's many years of service to my constituents and neighbors and wish him the best in retirement.

TRIBUTE TO JACKIE JOYNER-KERSEE

HON. JERRY F. COSTELLO

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 12, 1992

Mr. COSTELLO. Mr. Speaker, I rise today with great admiration and respect for the best woman athlete in history, Jackie Joyner-Kersee. As the Olympic Gold Medal winner in the heptathlon for two straight Olympic Games, Jackie has proved her athletic ability to the world. She proudly represented our Nation, the United States, in the 1992 Olympic Games. I would like my colleagues to join me in recognizing and applauding her for her amazing talents.

The heptathlon is a seven-event test of every basic track and field skill. Jackie Joyner-Kersee met her personal goal for the heptathlon and reached a score of 7,044. Her previous best, 6,985 points, was the world record holder prior to this year's event.

Jackie Joyner-Kersee is originally from East St. Louis, IL, in my congressional district. Although she currently lives and trains in Los Angeles, she has not forgotten the city of her youth. Jackie returns to East St. Louis to see friends and relatives as often as she can.

She established the Jackie Joyner-Kersee Community Foundation in 1989 to assist the youth of inner cities. The goals of the founda-

tion are to aid urban communities in developing the minds and bodies of their youth through academics, athletics, and other recreational programs. The foundation tries to help as many needy communities as financially possible.

Jackie Joyner-Kersee is not only an exceptional athlete but also a superior citizen of our country. Her commitment to both athletics and the youth of our Nation's inner cities is highly commendable. I hope my colleagues will join me in congratulating Jackie Joyner-Kersee for her performance in Barcelona at the XXV Olympic Games and praising her foundation activities in the United States.

WAGING THE PR WAR IN BOSNIA-HERCEGOVINA

HON. PHILIP M. CRANE

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 12, 1992

Mr. CRANE. Mr. Speaker, while the guns fire and the bombs drop, another battle wages in the republic of Bosnia-Hercegovina, a battle with words as ammunition and public opinion as the conquest. As evidenced last year with the now infamous and unsubstantiated testimony of the daughter of the Kuwaiti ambassador to Washington who told of unspeakable atrocities being committed by Iraqi troops, public relations firms can often shape the view of the public, lawmakers, and international leaders through the gruesome stories they perpetuate or the ones they chose to conceal. The situation in Bosnia-Hercegovina with Serbia and Croatia is no different as is illustrated in the following article. I encourage my colleagues to read on and increase their awareness of the PR war so as to avoid becoming a casualty of it.

[From the New Statesman & Society, July 31, 1992]

SPIN DOCTORS OF WAR

(By Karl Waldron)

It would have been perhaps the worst atrocity so far in a war where horror follows on horror; Serbian irregular snipers paid the equivalent of £300 for every child-kill they achieve. The story was related by Steve Watt, a volunteer aid worker.

"They target the children," he said, "because of the money and because they are easier to kill. With their small size, the bullets make a bigger mess."

Mr. Watt's words were transmitted—along with his claimed statistic for 11,000 child injuries from gunshot wounds and some 400 child-deaths—on Sunday, the BBC's morning radio news service, The World This Weekend and, perhaps most importantly, on News Hour, the World Service flagship news programme the following day. They were thus read into the record for a potential English language audience of 300 million listeners worldwide.

And the story is almost certainly not true. No one imputes any ulterior motive in Mr. Watt's relating what he had been told by Croats and Bosnians in his brave journey in a truck convoy on the road to Sarajevo; but one does have to question the BBC's editorial judgment in the manner of its transmission.

Like many other of its genre, this story had its origins in Bosnia-Hercegovina, but owes more than a little in its passage to Croat/Bosnian, and now international, folklore to the outpourings of a PR company's fax machine in Washington DC.

While origins of atrocity stories are frequently difficult to discern in war, the history of this one, unusually, can be traced. It first gained its credence in the Croatian media and, like many others from both sides of the conflict, it has little or no first-hand substantiation.

It made an appearance in an article written by Irtse Zortic, a Bosnian Muslim journalist working for a Croatian newspaper, the contents of which were subsequently repeated in other Croatian newspapers and formed part of a news broadcast transmitted by Radio Croatia International.

The service, which peppers its broadcast with items of blatant propaganda passing as "news", is treated with disdain by the western media. But like all international broadcasts, it is monitored by the BBC at Caversham, whose operators hear its other favoured subjects—Serbian salt mines operated with Croat and Bosnian slave labour and Kurdish militia fighting, for huge sums of money, for the Serbian cause.

The Caversham monitors record important information from the airwaves in the Summary of World Broadcasts. One said recently: "Frankly, much of what we get from all sides in this conflict is unusable, useless. Unless it is a speech or something like that, it usually finds its way to the bin." Which is what happened to Zortic's story.

Zortic stands by his story, but admitted last week that he was given it by the Croatian Information Ministry, in a private interview, and that he made no further checks. "Who could I ask?" he says. "You can't expect us to ring them [the Serbs] and believe them when they say it isn't true." But the tale, which is so widely accepted as fact in Croatia as to be described as an "old chestnut" by a senior western journalist covering the Yugoslav conflict, owes much to an earlier communication from the fax machine in the offices of Ruder and Finn in Washington.

Last week, Rhoda Paget from the company admitted to assisting in disseminating the "Cash for a Corpse" story. "We were told it by a minister in the Croatian government. We merely informed them of its importance and have never checked its honesty. Neither do we have the resources to do so. Frankly, it's just not our job. It's the journalist's job to check them out . . . but it came to notice by a surprising route." Ruder and Finn's "job" is to handle the PR account for the governments of Croatia and Bosnia-Hercegovina at a cost of US$18,000 (£9,700) a month, while British lobbying company, Ian Greer Associates, act in a similar regard "on behalf of Serbian interests", their undisclosed fee paid by a "syndicate of Serbian businessmen".

According to John MacArthur, publisher of Harpers magazine, and author of a book, Second Front, on the subject of public relations and propaganda in the Gulf war, it is the American company that is currently doing the better. "The relative success of these companies in getting horror stories into print is critical to the setting of the international political agenda," he says. "They affect votes in both the Security Council and the Conference on Security and Cooperation in Europe by altering the mind-set of an electorate who would never dream of reading a UN resolution. They establish the conditions which make it possible to be involved in a war."

MacArthur points to the success of PR company Hill and Knowlton in promoting the "Dead Kuwaiti Babies" story, in which Iraqi troops were alleged to have taken Kuwaiti babies out of their incubators and left them to die on the hospital floor. The story relied on the testimony of an eye-witness who subsequently gave televised testimony to the Congressional Human Rights Caucus. The "eye-witness" was subsequently revealed to be the daughter of the Kuwaiti ambassador to Washington who had been "told" about the killings by witnesses who have never since been produced.

"If this had been known at the time," John Edward Potter, senior Republican on the caucus said, "she would have not been allowed to testify". But the story of the story was not published until January this year, nine months after the end of Desert Storm. "Nayirah's testimony was critical for establishing the conditions where the American public would accept the deaths—any death—of their own," says MacArthur. "It is ironic and immoral that such changes should have brought about misinformation, perhaps even a downright fake."

According to Tom O'Sullivan, a journalist at PR Week, both Steve Watt's and Nayirah's testimony provide what is called in PR-speak, "a classic third-party endorsement", although Nayirah's was not revealed as such at the time. A story is told, someone also retells it and in the retelling it often gets embroidered. Watt says he was told the child-killings story on the road to Sarajevo and has no first-hand knowledge. That means the real, true story is that someone, preferably English or an English speaker and a non-combatant, believes in its authenticity. "But the listener doesn't take it in as hearsay—instead they hear it as recorded fact," says Sullivan. "You could argue, that is what the PR industry is all about.

According to an executive at Hill and Knowlton who, although not acting for any Balkan interests, refused to be named, the fact that Croatia is not subjected to any embargo, even for weaponry, while Serbia faces sanctions, may itself be due to better PR. A recent investigation of reported atrocities showed that the number of substantiated incidents was similar four perpetrated by Scrbs, two by Croats, one by Muslims, and two by Muslims and Croats together.

John Kennedy, a Conservative parliamentary candidate at the last election, now a PR consultant with Ian Greer Associates who has worked on the Serbian account, says that the Serbian government in its support for Serbian irregulars is "faced with losing battles on the second (propaganda) front precisely because they have been winning the war. The public relations defeats do not bother the fighters, of course, but they have an indirect effect on their ability to prosecute their war."

Mr. Kennedy, usually labelled by BBC radio—and without further qualification—as "an expert on Serbian affairs", feels Greer's way is more subtle than that favoured by the American companies. "We use the press," he said "but it is behind the scenes lobbying, and the use of governmental opinion to sway international governmental opinion where we are the most effective. The Serbs will now have more opportunity for pressing their cause. Milan Panic, prime minister of the rump Yugoslavia, numbers Lawrence Eagleburger, U.S. Assistant Secretary of State among his closest friends.

BODY COUNTS

(By Kevin Weaver)

Reporting on the claims and counterclaims of the numerous atrocities in Bosnia and Serbia has become a journalistic minefield. Both sides have long since embraced propaganda, accusing the other of orgies of violence that hark back to the atrocities committed in Yugoslavia during the second world war.

I saw similarly exaggerated claims during the Romanian revolution of 1989, when disembowelled bodies of pregnant women were paraded in front of the press in Timosoara. In fact, these women had died of natural causes and had been cut open for autopsies—not butchered by Ceauscecu's Securitate.

For the first time last week, one side in the Yugoslav conflict retracted an atrocity claim. A thousand Bosnian Serbs were alleged to have been massacred in Odzak in northern Bosnia, which had been captured by the Croats for three months. The Belgrade news agency, Tanjug, withdrew the claims when commanders from the Bosnian Serb army said there was no evidence of any graves. It then emerged that the reporter had picked up the claim from *Glas*, a paper published in a Serb stronghold. This rare retraction could signal a new trend, sparked off by the realization that false reports only escalate the scale of the sectarian-style atrocities on either side.

The Croatians have produced a 500-page book with pictures and eye-witness statements of Serbian atrocities. I saw pictures of burnt bodies—with their hands tied and their genitals cut off and forced down their throats. When I was in Split last month, reports came through of a massacre of 15 Croatian soldiers in Western Bosnia. Their faces had been shot to pieces, they had been castrated, and two fingers from each hand had been cut off, leaving the three-fingered Serbian salute.

Serbians tell similar stories of mass torture. The strongly partisan paper, Politika, has accused the Croats crack Ustashe force of "ethnic cleansing" in eastern Bosnia, and of razing Serb villages with modern German weaponry.

Speaking to some Chetniks (crack Bosnian Serb troops) in a Serb stronghold near Sarajevo, prejudice and propaganda was very apparent. The Chetniks, many of them teenagers, told me that during their ethnic cleansing operations, they had been attacked by drug-crazed Muslim Bosnians, and had rescued Serb children who had been raped by Muslims. They said that they had proof that Libyans, African and Iranian mercenaries were fighting for the Bosnians. In the same breath, they said that all Muslims were "dirty Arabs who wipe their bottoms with their hands".

The atrocities inflicted on Bosnian Muslims have been documented in a report called Save the Humanity, which was published last month by Bosnian peace and nongovernmental organizations based in Sarajevo. It draws on 20 statements made by eye-witnesses, who said they would be willing to stand up in an international court and repeat their statements.

These factual accounts seem credible, but some of the stories I heard in Sarajevo could easily have been exaggerations or pure myth. As the war in Bosnia continues, new atrocity stories come to light every day, increasing the stakes, and the bitterness on all sides. Such horror stories, whether true or false—and some certainly are true—will divide communities in Bosnia and the other Yugoslav republics for years to come.

REV. BEAM'S SERMON

HON. JOHN J. DUNCAN, JR.

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 12, 1992

Mr. DUNCAN. Mr. Speaker, I would like to share with my fellow Members and readers of the CONGRESSIONAL RECORD a sermon delivered by Reverend Richard Beam, minister of the Woodlawn Christian Church in Knoxville, TN.

Reverend Beam points out some very serious concerns we face in this Nation today, and I believe that everyone would benefit by having the opportunity to read his thoughts and giving them serious consideration.

RIGHTEOUSNESS EXALTS A NATION, BUT...

(Sermon by Rev. Richard Beam)

Prov. 13:34.—A righteous nation will prosper, a wicked nation will suffer. A righteous nation acknowledges God and behaves rightly in his sight. A wicked nation turns its back on God and behaves sinfully. The Old Testament is filled with examples of this. When the children of Israel crossed into the promised land, Joshua led them against Jericho in an unusual battle plan. They were to march around the fortified city for six days and on the seventh they were to blow their trumpets and shout. Their army was large enough to surround the city so when the walls came tumbling down they simply walked in and destroyed their enemies.

But do you know the rest of the story? The defeated city was dedicated to God, so they were to take no booty from it. A man named Achan knowingly stole some gold and silver and a garment, so when Israel sent a small band of soldiers against a tiny army at Ai they were routed. The cause of their defeat was the sin of one man. There is a pattern here. Righteousness leads to prosperity; unrighteousness to defeat, and it does not only apply to Israel but to every nation. The Canaanites were driven from the promised land because of their unrighteousness. Sodom was destroyed from heaven because there were not ten straight people in the city of homosexuals. These are examples of a principle that still is in force today. Righteousness exalts a nation, but sin is a reproach to a people. This is simply the teaching of Jesus that "Whatsoever a man sows, that shall he also reap." It is that principle on a national scale.

You can see the principle in modern times, I think in the last 70 years of the history of the USSR, a nation that tried Godlessness as official government policy only to see its own walls come tumbling down in Berlin in a sort of modern miracle. This nation dressed in grey and black with sad wrinkled faces waited in lines for food for 70 years, drowning their sadness in vodka. There were, of course, well-fed, well-housed exceptions.

Contrast that with the history of the United States of America which has not been perfect by any means, but which has acknowledged that the rights of its citizens came from God, not the state, and which has scriptures carved on most of its public buildings, which requires that the words, "In God we trust" be engraved on its coins, which pledges allegiance to its flag as "one nation under God," whose presidents are sworn into office with one hand on the Bible and commonly end the oath of office with the word "so help me God." On a typical Sunday 53 million people are in church in America, and the number is growing annually. This is a nation that for these 200 plus years has known relative prosperity. there have been and still are the hungry and homeless, exceptions.

But one nation fell, I think because of official Godlessness, and the other is slipping because of a spreading Godlessness. The United States is moving toward becoming a secular state. Dan Quayle raised the question of family values in a recent speech that brought ridicule from the media, but when the laughter died down, the nation realized that he had raised a serious issue. There is another serious issue that would be even more difficult for a politician to raise. It is this. As a nation, we no longer value God like we once did.

Let me give you two examples. For as long as we have had public education in America, 100 years round numbers, graduation ceremonies have been opened by invocations and closed by benedictions. But in June of 1989 in Providence, Rhode Island, 14 year old Debbie Weisman was attending her middle school graduation when following the pledge to the flag, Rabbi Leslie Gutterman was introduced for the prayer. He addressed God as "God of the Free, Hope of the Brave," and delivered a 42 second prayer thanking God for the constitution, the political process, the court system and the destiny of the nation. At the end of the service he pronounced at 27 second benediction in which he alluded to only one scripture in Micah 6:8 asking the graduates to "do justly, love mercy, and walk humbly." James Kilpatrick cites these details in a recent syndicated column.

Debbie Weisman's father sued for this first amendment violation and won in the Supreme Court. There are to be no prayers in public graduation ceremonies in American public schools ever again. I don't see how you can call that anything but a major shift in the way we value God in America. I know no one who wants prayers to be mandated in public schools, but to outlaw prayers says something about a nation that I don't want said about may country.

An editorial I read in a Columbus, Ohio newspaper lauded the decision as a good one, allowing that the business of schools is reading, writing, and arithmetic. I don't know if that was propaganda or if the editor is that far out of touch with reality. People who make that kind of statement don't want to take sports out of schools, or technical education, or guidance counselors, or especially sex education and free condom distribution. They only use that line to get out of schools what they don't want in schools. In this case God.

Schools teach reading writing and arithmetic, though poorly, if national testing means anything, but they also teach values. Some of them they teach directly like the family and citizenship values those who are my age and older learned in schools. Sometimes they teach them in values clarification classes which mostly teach that there are no values except the ones you create for yourself. Sometimes schools teach values in sex education classes where safe sex is valued above all else. But they teach them in other less direct ways. They teach them when they say the pledge to the flag, and when they expect hard work, and when they punish behavior, when they enforce dress codes, and rules about smoking and carrying weapons, and they teach them with their attitude toward cheating. They also teach them with their attitude toward God.

I know that kids can pray silently if they want to, anytime, any place, but I am talk-

ing about the public responsibility to acknowledge the existence of God in the schools. I know that only a tiny fraction of the students may listen to the prayer at graduation and fewer yet may pray with the prayer, but to have a prayer says something about how you value God in the society. I know that the wording of a non-sectarian prayer would likely be watered down and not please everyone and possibly not anyone, but to have a prayer says something about how we value God. I know that a priest of some kind or a rabbi or a preacher from some church other than mine would probably deliver the prayer. But the prayer recognizes the existence of God.

Righteousness means doing what is right in the sight of God. Yet we are undergoing a period in our history when we after nearly 200 years have finally understood that the founding fathers did not want us to mention God in public life. And that is absolute foolishness. How did all of the references to God get there and how is it that our history is so full of them? The forefathers wanted church to be separated from state, but they did not want God removed from public life. The least government ought to say is that God is. That is not a sectarian statement. It may be offensive to a very few but not to say that is to say that God does not exist or that God does not matter.

Here is example two. When I was a Boy Scout, as I was for many years, earning the rank of Star and the position of junior assistant scout matter, I took the scout oath to do my duty to God and country and to be morally straight and clean. You had to believe in God, live morally, and be a good citizen to be a boy scout. Most troops met in church buildings and were welcomed there. In our troop we prayed at meal time and when a camping trip took us away for the weekend, we had church services.

In today's secular climate the Boy Scouts have been maligned on two fronts. First they have been sued because they do not accept atheists and secondly because they do not accept homosexuals. The Boy Scouts have reaffirmed their positions and are determined not to back down. As a result they have lost financial support from some local United Way organizations and from some companies who have written into their policies that they do not support organizations that discriminate by religion, or sexual preference. Levi-Strauss, the makers of Levis, is one of them, according to a recent News Sentinel article. Now these companies and United Ways can do what they want, but I will not buy from Levi-Strauss and urge you to do the same, and I would never support the United Way's many local organizations of which also support Planned Parenthood, the largest supplier of abortions in America.

But who would have thought this. The Boy Scouts are also under fire from mainline denominations. The Presbyterian Church USA voted on a measure that would have forced them out of hundreds of their church buildings. The measure failed, but the fact that it was raised is a disgrace. The Evangelical Lutheran Church in America has criticized the Boy Scouts and may vote on a similar issue. The Boy Scouts are bracing for flack from other mainline churches too. (This according to a report in the National and International Religion Report.)

I am not surprised that a few people have the kinds of attitudes expressed in these two illustrations—graduation prayers, and the boy scout oath—but I am surprised that these views are so broadly accepted. They represent a national trend toward secularization. I am also surprised that few Christian people speak out against them.

I am not talking about times changing here, about people dressing differently and wearing their hair differently or about difficult problems brought on by technology. We are talking about issues fundamental to the survival of our society.

It used to be that the government was sympathetic to religion because it knew that religion was good for the society. Genuinely religious people do not steal and lie and cheat. They do not murder or riot. They work hard and support themselves and support their families and take care of their own poor and needy. If the benevolent work of religious groups stopped, there would be no way that government could replace it. It would go undone. And there would be more sadness, loneliness, and misery than this country could bear. So government used to be sympathetic toward religion. This is becoming less and less true. Government is increasingly hostile toward religion. And in this country, more than in Israel of old, more than in the Soviet Union, we are the government, so we share responsibility for the increasing Godlessness.

And remember this. If the curse of God comes on a nation, it comes on the entire nation. If this nation has prospered in part because of our general acknowledgement of God, we have all prospered. Like several boats the righteous and the wicked have risen with the tide. And if because we have denied God we suffer as a nation, we shall all suffer. Our children and our children's children will suffer.

Christians used to be able to pray without hesitation for government and preach without reservation about America. This is increasingly difficult. We will of course continue to pray and increase our prayers for our leaders. We will, of course, on occasions like this preach about our nation, but the sermons become less and less positive. And it is not because Bible believing Christians don't agree with a few policies or decisions, but because we increasingly do not believe in where America is going.

We believe that righteousness exalts a nation and sin is a reproach to a people. We believe that neither individuals nor nations can define sin and righteousness for themselves, but that these are defined and revealed by God. And our hearts are broken when we see our nation on the road to self-destruction.

I do not believe that America is or ever was or ever should be a theocracy. But she has and should again acknowledge the existence and power of God. However we deal with multiculturalism, it must not be by turning our back on God. There is no way that the increasing secularization of America can be defined as anything but evil and a reproach to her people. There are those who think this is a small matter. Even in the church there are those who think this is a small matter, or even agree with the Supreme Court decision, and of course there are larger issues, but the real question is this: In the eyes of God is this a matter of indifference or unimportance. And this: Is it likely to do more good to remind students even in the broadest and most general terms of the existence of God or is it more likely to harm them?

So pray for America. For the sake of your children and grandchildren. And work to make America a better place, a more Godly place. Speak up for God whenever you get a chance. And vote for people who believe in God enough not to want him banished from public life, and who believe in him enough to speak for him without shame. And don't support in any way the forces that are advancing the causes of Godlessness. And renew your own commitment to God and to Godly living for what is true of a nation is true of an individual.

JULY 5TH, 1992 PRAYER

Lord in these days when Americans celebrate the birth of this great nation we celebrate with them, though we are only strangers passing through to a better land.

We celebrate because in your providence there has been established a place on the earth where the faith in Jesus could prosper and spread across the globe.

We celebrate because in your providence there has been established a place where individual freedom has flourished like never before, especially where we are free to worship you as we understand you.

But we celebrate with some sadness, because we fear that this nation shall never again be what she once was. We sense the gradual erosion of freedom and the growing distaste for righteousness.

We see a world in which every person does what is right in his or her own sight. We see too much of Sodom and too much of Babylon in America.

We are afraid for our children and we are ashamed that we have nearly lost what was once ours. Forgive us our sins first, and forgive the sins of our leaders and of our nation.

Make strong the voices and the wills of those who speak for righteousness. Diminish the forces of evil. And may your name be welcome across this land. In our schools and courthouses, in our congress and in our senate, in our art and our media, may your name be welcomed.

Make this church and the churches salt and light. Restore our land. Make us as a people all that it is possible for us to be. Give jobs to the jobless, homes to the homeless, help to the helpless. Remove graft, greed, and selfishness from our public offices.

May it become true of us that "in God we trust." May we be more than ever before, "A nation under God." And start here in this place by cleansing our own hearts as we renew our own commitment to you in Jesus name. AMEN

FARM PAYMENT FAIRNESS RESTORATION ACT OF 1992

HON. JOHN D. DINGELL

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 12, 1992

Mr. DINGELL. Mr. Speaker, for several years, the farmers of my congressional district have expressed to me their frustration with the current payment yield system used by the Agriculture Stabilization and Conservation Service [ASCS] to determine farm program payments.

In 1990 the Congress approved two bills which have had a substantial impact on the payments received by our farmers: The Food and Agriculture Act—1990 farm bill—and the Omnibus Budget Reconciliation Act [OBRA] of 1990.

The current farm bill freezes payment yields at the level paid for the 1990 crop year, a continuation of the policy first implemented under the 1985 farm bill which was initiated to help

stop plummeting farm prices caused by record levels of commodity stocks.

In preparation for the 1990 farm bill, the U.S. Department of Agriculture [USDA] conducted a study that showed how much several varying options for changing payment yields would cost the Federal Government. Four choices were developed for congressional consideration:

First, adjust payment yields to reflect actual yields for all farmers, yielding up and yielding down inaccurate yields where necessary to balance the program—projected additional cost of $.5 billion.

Second, change the calculation for actual yields by creating a 5-year average that discards the highest and lowest years—projected additional cost of $0.54 billion.

Third, allow producers to choose between county established yields and proven yields—projected annual cost of $1.2 billion.

Fourth, retain county established yields.

Section 505 of the 1990 farm bill directs the Secretary to either retain county established yields as first determined in 1985, or at the Secretary's discretion, establish a farm program payment yield for any farm on the basis of actual yields—the average of the yield per harvested acre for the crop for the farm for each of the 5 crop years immediately preceding the crop year, excluding the crop year with the highest yield and the year with the lowest yield.

The farmers in Monroe County, Michigan, like many other farmers who informed me that they did not keep up their yield records, are being paid a amount vastly beneath the average amount of crop grown for each planted acre. The consensus in Monroe County is that true change must be market based, but if a farmer is going to participate in the farm program, he or she wants to play on a level field.

I believe that the farmers of my district have a legitimate concern—that it is time to pay farmers based on what they actually grow, instead of on outdated bureaucratic computations.

I am, therefore, introducing the Farm Payment Fairness Restoration Act. This bill requires the Secretary of Agriculture to use the statutory authority granted him under the 1990 farm bill to compute farm payments on the basis of actual yields, those yields that farmers can prove through their own production records. To pay for the anticipated increased costs to USDA farm programs, this legislation would direct the Secretary of Agriculture to use $1 billion in funds which were triggered on June 30, 1992 for increasing USDA export program funding in the absence of a GATT agreement.

Unfortunately, the $1 billion provided by the GATT trigger would not be enough to fund the use of actual yields in the long run. The continuation of an actual yields policy would have to be debated during consideration of the next farm bill. This legislation would, however, help to make sense out of the Farm Payment Program by using additional trade program dollars to help the small- and medium-sized farmer get paid fairly for the amount of crops they grow, rather than increase funding for an export program whose funding, mainly to major corporations, has raised eyebrows among our colleagues.

It is my hope that this legislation might begin to address the inequity that many American farmers, including those in Monroe County, face when they participate in the farm program, so that these growers can better market their products for sale both at home and overseas.

HARBOR MAINTENANCE TAX ROLLBACK LEGISLATION

HON. GERRY E. STUDDS

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 12, 1992

Mr. STUDDS. Mr. Speaker, today Congressman MOAKLEY and I are introducing legislation that will roll back the harbor maintenance tax in order to save jobs and keep our ports competitive.

The harbor maintenance tax [HMT] was established in 1986—Public Law 99–662—to offset the Corps of Engineers' costs for developing, operating, and maintaining America's harbors and ports. Previously, these activities were paid from general tax revenue, but under the 1986 statute the corps was authorized to recover up to 40 percent of its operation and maintenance costs from HMT revenues.

The 1986 law authorized the Customs Service to begin collecting a 0.04 percent HMT on the value of waterborne cargo and passenger fares moved through U.S. ports. In the case of cargo entering the United States, the tax is paid by the importer, in the case of cargo leaving the United States by the exporter, and in all other instances by the shipper. Since 1986, Customs has collected approximately $160 million annually in harbor maintenance taxes.

Unexpectedly, the Omnibus Reconciliation Act of 1990 increased the fee from 0.04 percent to 0.125 percent ad valorem. The primary justification for the change was to raise revenues and make it possible for the corps to recover 100 percent of its authorized operation and maintenance costs. In New England, and in Massachusetts particularly, the tripling of the tax has had a profound negative impact on our economy, increasing the cost of shipping out of New England ports and causing cargo to be diverted to cheaper Canadian ports. For example, since the increase, the Port of Boston has lost 10,000 to 15,000 containers to alternative Canadian ports because the higher HMT has added $200 to $400 per container to shipping costs. This added cost puts U.S. products at a competitive disadvantage with goods produced overseas.

There is also precious little evidence that the current level of the HMT is warranted by the amount of port dredging expenses. The American Association of Port Authorities estimates that in 1990 the funding needed for port maintenance was $270 million; current annual collections are anticipated to exceed $600 million.

In addition to rolling back the HMT, the bill we are introducing today provides that the tax should not be imposed more than once in the movement of a cargo under the same bill of lading, regardless of how many times that cargo is loaded or unloaded. Current law specifies that the HMT will be imposed for exports "at the time of loading," and in all other cases "at the time of unloading." However, due to intermodal shipping and the use of feeder vessels, cargo may be loaded or unloaded—onto or off more than one vessel—more than once during a voyage. For example, where a cargo is carried from one port to another, and then transferred to a feeder vessel to be carried to its ultimate destination, the tax would be assessed on that cargo twice. It is inherently unfair that the tax should be levied on the same cargo any number of times due to the vagaries of certain transportation arrangements.

Finally, the bill contains a provision to enhance enforcement, and thus replace revenues lost by restoring the tax to its pre-1991 level. Specifically, the bill authorizes the Department of the Treasury to receive up to 10 percent of the harbor taxes collected for enforcement activities. Experts in the shipping and trading community believe that there is currently widespread evasion of the HMT, in part because enforcement is lax. Shippers believe that the increased enforcement made possible by this bill will lead to greater tax receipts, which would help compensate for revenues that would be lost in rolling back the tax.

Mr. Speaker, we recognize that it is unlikely that this legislation will move forward this Congress; however, we believe that the issues addressed by the bill are very serious and deserve immediate consideration. In the coming months we intend to press the case of a rollback of these taxes and work with the maritime community in identifying revenues that could be used to offset the rollback. For the future of our ports and the thousands of jobs dependent on them, we urge our colleagues to join us in cosponsoring this important bill.

WSSC'S HELM ON PRIVATIZATION

HON. CONSTANCE A. MORELLA

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 12, 1992

Mrs. MORELLA. Mr. Speaker, our environment and health are two most important areas which we always must protect. That is why we have enacted into law the Clean Water Act and the Safe Drinking Water Act. Their requirements are vital to our welfare. However, the Clean Water Council recently reported that required capital expenditures under the SDWA will total $49 billion during the next 7 years. More money will be required to carry out CWA mandates.

About 85 per cent of the water systems in the United States presently are owned by local and State governments. These governments may not have funds to meet those staggering requirements. The EPA's grants to public utilities also are rapidly dropping because of budget constraints. If the requirements are to be met, user charges may jump in many communities.

A constituent of mine, Lewis M. Helm, is vice chair of the Washington Suburban Sanitary Commission, the Nation's seventh largest water and waste water utility serving 1.5 million suburban Marylanders. On July 29 he ad-

dressed a public hearing conducted by the U.S. Environmental Protection Agency to implement an Executive order to facilitate privatization of waste water treatment facilities.

Commissioner Helm's thoughtful comments should stimulate discussion, and I want to share them with my colleagues:

"It is a privilege to participate today in the process that could lead to the privatization of water and waste water treatment facilities. I applaud President Bush for issuing Executive Order 12803 and the Environmental Protection Agency for moving quickly to provide implementing guidelines.

"Four months ago I wrote short "op-ed" pieces for the Washington Post and the Montgomery County Gazette newspapers. These called for privatization of the Washington Suburban Sanitary Commission. This was a worthy objective, I felt, which could solve the economic inefficiencies impeding cost-effective service to 1.5 million residents of Montgomery and Prince George's County.

"The articles pointed out that 53 per cent of WSSC's operating budget was debt service, even worse than the Federal government's percentage. No appraisal had been made of our assets. A safe guess puts the value at about $7 billion. A stock sale could provide funds to pay off our $1.5 billion debt, provide some equity to rate payers, give the two county governments a share of the proceeds and assure operating and capital funds for some time.

"The opinions expressed were solely mine as Vice Chair of the seventh largest water and waste water treatment utility in the United States. They are *not* necessarily the opinions of the Governor and state legislature which control WSSC legislation, *not* necessarily the opinions of the two County Executives who appoint and give policy guidance to three WSSC Commissioners from each count, *not* necessarily the opinions of the two county councils who approve our operating and capital improvements budgets, *not* necessarily the opinion of the bi-county Park and Planning Commission which makes the development plans we implement, *not* necessarily the opinion of the Maryland Public Service Commission and *not* even the opinion of my five fellow Commissioners. And then there's the poor guy in charge of running WSSC, our General Manager, Dick Hocevar. What does he think?

"Those are the political entities with enforceable opinions about WSSC. Generally speaking they give constructive opinions about rates and priorities, what to build and not build, where to do it and all other management areas. It generally is sound and well-motivated guidance. However, political entities often have different perspectives and objectives internally and externally. Not only does Maryland provide strong leadership but we also work with the District of Columbia and Fairfax County, Virginia, through various agreements. That provides a degree of excitement occasionally too.

"Do you see our problem? Who decides for our customers what they should have, where it should be, whether long-time residents underwrite costs of new construction, whether maintenance should be emphasized, how far ahead of the need curve should expansion be kept, and so forth? Our customers cannot do it themselves.

"We have many layers of political involvement. Does it result in finer products and services at the lowest possible price? Of course not! It provides decent quality through a heavily-encumbered, non-economic system.

"Others have gone before us along the path to privatization.

"The former Financial Secretary to the Treasury of Great Britain, John Moore, was a strong force behind privatizing the systems there into privately owned systems.

"Privatization increases productivity efficiency . . ." he said. "Private sector companies able to draw on capital markets to finance efficiency or expansion face circumstances different from those faced by industries in the public sector."

"Steven H. Hanke, writing about "The Economics of Canadian Municipal Water Supply", called that country's pubic systems "bureaucratic socialism . . . insulated from the forces of market processes such as consumer demands and economic costs." He gave these as hypotheses which apply here also:

Private rate schedules more closely reflect cost and demand conditions than do public schedules;

Private capacity costs are 10% to 50% lower than comparable public costs;

Private firms adopt cost-reducing technology more rapidly than public firms;

Public enterprises are expected to be more highly capitalized than private ones . . . and the ratio of peak demand to total capacity typically is lower for public than private firms.

"So why are so few water and wastewater utilities in private ownership?

"It's historical, first and foremost. John Stuart Mill argued more than 100 years ago that under "natural monopoly conditions private water companies would engage in wasteful competition".

"This belief is still alive and well in our tax and environmental laws. If my opinion prevailed throughout every political entity controlling WSSC, privatization still would not happen. Some federal regulations, some provisions of the Clean Water Act and 1986 Tax Reform Act, are anathemas to privatization. But these inhibitors can be modified.

"The Clean Water Act provides grants to capitalize state loan funds that are used for "construction of treatment works which are publicly owned". This effectively precludes funds for privatized entities.

"OMB Circular A102, Attachment N, prevents the sale of facilities financed with federal funds and curtails upgrading with private funds.

"EPA's regulation as now written to grant-funded real property says "Except as otherwise provided by Federal statutes, real property will be used for the originally authorized purposes as long as needed for that purpose and the grantee or subgrantee shall not dispose of or encumber its title or other interests."

"The following are presented for your consideration:

"The tax law should be modified to include an Accelerated Cost Recovery System establishing a shorter depreciation period. The five to eight year period for depreciation existing before the 1986 Tax Reform Act would be ideal. This would permit a more reasonable timeframe for capital recovery;

"Second, tax exempt financing should be permitted for all water and wastewater facilities, not just public facilities. This would allow low interest bonds for private sector development just as in the public sector;

"Third, reintroduce an investment tax credit;

"Fourth, the OMB Circular and EPA regulations need change so that facilities which previously were federally funded can be sold to private entities or improved with private funds. It is self-defeating to limit federal assistance only to public wastewater facilities. The purpose of the facility and not the ownership of the facility should be the criterion for funding;

"Fifth, EPA's rule-making should include water as well as wastewater facilities. The two systems are closely linked and should operate as one;

"Last, I request that you address the economies of scale that could be provided by regional, rather than local, operations. Incentives for regionalization could bring less expensive operations with fewer obstacles.

"We want to participate in what EPA does during the months ahead. You have a chance to bring reason to this vital area. You can help to make water and wastewater utilities productive, economic, taxpaying entities. You can free public capital for other uses. You can bring America's greatest strength, our enterprise system, into play. You can give us the same opportunity for privatization that the former Soviet Union and the countries of Eastern Europe now enjoy."

A TRIBUTE TO EUGENE V. ENDRES, THE "ROSE MAN" OF OHIO

HON. DOUGLAS APPLEGATE

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 12, 1992

Mr. APPLEGATE. Mr. Speaker, a special individual will be honored on Friday, August 14, as the Ohio Agricultural Council pays a special tribute to the late Eugene V. Endres of Tuscarawas County, OH

Gene Endres, known as the "rose man" of Ohio, will be inducted into the Agricultural Hall of Fame along with three other great individuals who will be recognized for their "outstanding work, sacrifice and dedication to Ohio's No. 1 industry: agriculture."

Gene Endres would make frequent trips to Washington and would visit his many friends on Capitol Hill. But, rather than handing out the typical business card to those he would meet, Gene's calling card was a small rosebud—frequently of a color seldom seen in a rose—and most everyone would get "pinned" on their lapels, a sure sign that the rose man had been to town and left his mark. It was often easy to figure out where Gene had visited by walking the halls of Congress and viewing colorful rose buds adorning those who had the pleasure of encountering him.

Gene's induction into the Agricultural Hall of Fame is very fitting and a special distinction, and I only wish that my good friend could be there to hear the flowering of praise that he so well deserved as the rose man of Ohio. Gene probably wouldn't want all of the recognition that will be heaped upon him, but we all know that he truly deserves it.

Gene Endres made Tuscarawas County a household name when it came to the floral industry of America, and I can tell my colleagues in Congress that such a distinction is, indeed, a very tall order. Mr. Speaker, Eugene V. Endres was a special person and a special friend to many people, and recognition by the Ohio Agricultural Council is a further tribute to a man who helped to bring color into our world and a sweet fragrance to the air.

RURAL SMALL BUSINESS FEDERAL CONTRACTING ACT

HON. BYRON L. DORGAN

OF NORTH DAKOTA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 12, 1992

Mr. DORGAN of North Dakota. Mr. Speaker, today I am introducing legislation to help create new jobs in rural America. This bill would give rural America a real chance to compete for federal contracts.

Although there is not rioting and looting and no one is burning down businesses in rural America the economic distress is no less acute than in some urban areas. Consider the following facts:

The income gap between rural and urban areas widened in every year of the 1980's, reversing the trend that had persisted for the previous several decades.

There is an overall 10 percent wage penalty for living in a rural area, but in 1989, the differential between rural and urban areas was 35 percent for those with a college education.

Last year, 1240 rural counties (over half) had out-migration population losses.

Employment growth during the 1980's in rural areas was only 60 percent of that in urban areas.

Unemployment rates were higher in rural areas than in urban areas every year during the 1980's.

The poverty rate in rural areas has been basically unchanged for the past 20 years.

More than 80 rural counties have higher child poverty rates than Detroit, the American city with the highest rate of child poverty.

The result has been that rural America is exporting it's premier resource—educated, hard-working young people. This phenomenon masks the problem behind unemployment rates which often seem relatively low compared to some parts of the country, but in fact is covered up by out-migration.

In the meantime, the Federal Government is now paying premium prices for labor in many high-cost areas. In today's world, where much work gets done in front of a computer terminal, the location of that terminal is becoming less important. Given a fair chance, rural America has the skills, the work ethic and the motivation to make a contribution. Given a chance, I believe that more contracts in rural areas will also save the taxpayer money.

The bill would allocate a share of Federal contracts to business concerns located in rural areas. The share of Federal contracts to be directed to rural businesses is 20 percent of the value of prime contract awards for each fiscal year.

A study by the Department of Agriculture Economic Research Service published in 1989 concerning the geographic distribution of Federal funds contained the following findings:

Metro counties received 92 percent of all procurement contracts, 94 percent of all defense contracts, and 87 percent of all non-defense contracts.

Metro counties received nearly four times as much in procurement contracts as non-metro counties.

What is needed is the opportunity to compete—not handouts or subsidies—real opportunity to develop real businesses in rural areas. Let me be clear. We ought to tackle economic distress wherever it occurs—urban or rural, coastal, or heartland. But it is evident that rural America is in need of help, as much as or more than many urban areas.

In the future, access to information is the critical factor that will determine winners and losers in an information-based economy. Access to information requires a basic infrastructure and the skills to use information and technology wisely and productively. Strategies and policies that contribute to long-term investments in people and access to information in all areas of the country will help assure that rural America won't be passed by again. This bill would help rural America position itself for the economic changes ahead.

SALUTE TO JAMES B. SAMPSON

HON. JOSÉ E. SERRANO

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 12, 1992

Mr. SERRANO. Mr. Speaker, it is with great pleasure that I rise today to salute Mr. James B. Sampson, director of the Mitchel Senior and Community Centers in the south Bronx. Throughout the past 26 years, Mr. Sampson has dedicated himself to serving the needs of the south Bronx community and his exceptional commitment will be celebrated next August 22 at a gala to be held in his honor.

A native New Yorker, Mr. Sampson grew up an outstanding athlete. As a result, he graduated from Seward Park High School with a scholarship to Benedict College in Columbia, SC. At this institution, Mr. Sampson's exceptional athletic abilities led him to establish a number of records for which just 2 years ago he was inducted into the Benedict College Hall of Fame. Having received his B.S. degree from Benedict College, Mr. Sampson went on to attend South Carolina State University and then Columbia University in New York.

Following the completion of his studies, Mr. Sampson taught and coached at Fairfield High School in South Carolina for 9 years. As a result of his guidance, the school produced winning teams in track, baseball, and basketball—the latter of which won seven State championships and numerous conference titles. For his invaluable contributions as teacher and coach, Mr. Sampson was honored by the entire Fairfield High School community.

In 1966, Mr. Sampson joined the Mitchel Center community as evening director and 8 years later became the director of the Mitchel Senior and Community Centers, a position he still holds today. Throughout his tenure at the Mitchel Center, Mr. Sampson's commitment to the community has earned him the respect and admiration of the neighbors of the south Bronx. He has played a valuable role in encouraging our high school students to sucessfully complete their academic careers and go on to college, frequently with the assistance of athletic scholarships. Two outstanding examples of Mr. Sampson's successful relationship with young athletes are Mr. Rod Strickland, NBA star, and Mr. Hugh Evans, the first black referee in the NBA.

In the past, Mr. Sampson has also worked with Har-You-Act, Harlem Hospital, and the Urban League. He belongs to the board of directors of the Urban League as well as that of the Schoenberg Library and he is a member of Kappa fraternity. Throughout his life, Mr. Sampson's endeavors have always reflected his genuine concern for his fellow people as well as his desire to encourage the achievement of excellence. Today, on behalf of the people of the south Bronx, I would like to express to Mr. Sampson my deep appreciation for his commitment and dedication to our community.

INTRODUCTION OF BILL TO PROVIDE FOR TRANSFER OF RIGHTS OF WAY IN SHENANDOAH NATIONAL PARK

HON. GEORGE ALLEN

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 12, 1992

Mr. ALLEN. Mr. Speaker, today I am introducing legislation which would permit the Commonwealth of Virginia to resume possession of the rights of way for segments of certain secondary roads running through the Shenandoah National Park, exempted from the equal value exchange of land required under Federal law.

The Department of the Interior solicitors recently concluded the special use permits Virginia has used in the past are no longer permissible under current Federal law. Therefore, if the Commonwealth of Virginia wants to continue maintaining the roads running through the Park, it would have to resume possession of the rights of way. Under current law, the transfer of these rights of way back to the Commonwealth would require an equal value exchange of land.

When Virginia originally donated the land to the National Park Service, the Commonwealth should have reserved title to the rights of way for those few segments of road which happen to cross over into the Park in certain places, sometimes in segments of only 40 or 50 feet. Regardless of this oversight, which occurred decades ago, it is unreasonable now to require Virginia to give up additional land simply to continue maintaining these roads, which are needed for use by school buses and local residents.

The Superintendent of the Shenandoah National Park, Bill Wade, has publicly stated his support for such an exemption. In addition, the Virginia General Assembly has overwhelmingly passed a resolution calling for the resolution of this particular equal value situation.

Expeditious enactment of this legislation is necessary to enable the Virginia Department of Transportation to continue maintaining the roads as it has in the past. The bill would provide the transfer of the rights of way to the Commonwealth of Virginia as they exist upon enactment of the legislation. It would not permit the loss of additional park land, which would remain subject to the equal value exchange requirement.

OLYMPIC-SIZE MARKETING MISTAKE

HON. LOUIS STOKES

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 12, 1992

Mr. STOKES. Mr. Speaker, from the opening ceremonies on July 25 to the grand finale on August 9, the world watched as its greatest athletes competed in the 1992 Summer Olympic games.

One name which has become synonymous with the Olympics games and winning is Jackie Joyner-Kersee. This year, Joyner-Kersee captured an Olympic gold medal in the heptathlon and a bronze medal in the long jump. Since the 1984 Olympics, this extraordinary American athlete has captured the gold and set world records. She has also captured the hearts of Americans as an outstanding individual and positive role model.

Mr. Speaker, it is unfortunate that this individual, easily considered the world's greatest track and field athlete, does not enjoy the financial awards that accompany such a distinguished feat. I want to share with my colleagues a recent article which originally appeared in the Chicago Tribune and was reprinted in the Plain Dealer newspaper. The article explores the marketing, or lack thereof, of Jackie Joyner-Kersee, an Olympic hero. The article speaks for itself and I am pleased to bring it to the attention of my colleagues.

OLYMPIC-SIZE MARKETING MISTAKE

(By Beth Austin)

Who is the World's Greatest Athlete? Reebok poured $25 million into an ad campaign posing that question, pitting decathletes Dan Whozits against Dave Whatsisname. That morsel of marketing genius backfired when Dan O'Brien failed to qualify for a trip to Barcelona.

In reality, even a titanic Olympic battle between the two would only have decided who was the World's Greatest Male Athlete this year. Because as track fans have known for years—and as many major marketers apparently fail to understand—the World's Greatest Athlete, at least in track and field, is unquestionably Jackie Joyner-Kersee.

Her name is a familiar. She's won back-to-back Olympic gold medals in the heptathlon in 1988 and 1992. But most probably don't realize how phenomenal the 30-year-old athlete's career has been. She won a silver medal in the 1984 Olympics, after pulling a hamstring during the competition; she hasn't lost a heptathlon since. Her 1988 world record of 7,291 points, set in Seoul, still stands. In addition to holding the world's record in the long jump, she is nationally ranked in the 200 meters and the 100-meter high hurdles.

So why isn't she all over the airwaves this summer, as marketers pounce on the Olympics? Why isn't she beaming down from billboards onto the hordes of teen-age girls who adore her? Why, in heaven's name, isn't Jackie Joyner-Kersee's face on the Wheaties box?

It's not because she's turning offers down, according to her reps. Joyner-Kersee has said she is mystified and a little hurt by the relative lack of interest: "I feel that I have the right personality and the right image. I guess I'll just have to continue to try to break records."

But part of the problem is that she's just too talented. Sports fans like to enjoy a little uncertainty about the outcome of an event. But watching Joyner-Kersee in the heptathlon is like waiting for the microwave to ding; unless something breaks, the result is fairly predictable.

She's equally bad copy off the field. She has been married to her coach, Bob Kersee, since 1986, so she's not likely to show up on Oscar night as Spike Lee's escort.

Unlike many athletes, whose personal problems make them good copy, Joyner-Kersee has enjoyed a reputation for fundamental integrity since she started setting track records in high school.

But there are more basic reasons for Joyner-Kersee's absence from the ranks of top sports celebrities; she doesn't fit the narrow niche that advertising reserves for women athletes. Advertisers seem to favor cute, sexy, wholesome little girls who just happen to be world-class athletes. Joyner-Kersee's attention is focused on her performance, not her appearance.

Advertisers don't mind when their male celebrity endorsers emerge victorious but soaked with sweat or sodden with Gatorade. Women are held to a different standard; if they don't look adorably feminine during competition, it's news.

One sports columnist—a fan no less—felt compelled to write that Joyner-Kersee "has hair like a hedge and always seems to have just come in from a hard day of steer wrestling." Just for the record, Joyner-Kersee is a stunning woman. But on the field, where it counts, she looks like what she is—an extraordinary athlete hard at work. The vision of a tall, muscular woman hoisting a javelin doesn't allow many men the luxury of feeling a little superior and sexy toward her.

Finally, it may be that advertisers just don't feel comfortable with a woman whose face and body proudly reflect her African heritage. That's usually phrased more delicately, by people who call her "unphotogenic"—although her recent appearance in Vogue magazine, and her portrait in a fashion ad for the Gap, prove that she photographs beautifully.

But ad people seem to prefer black woman who look like darker-skinned contenders for the Swedish Bikini Team.

So what will happen after Joyner-Kersee wins a few more gold medals? She'll probably appear in a few commercials, then return to her low-profile routine until the 1996 Olympics in Atlanta. But she deserves the kind of rewards, financial and emotional, reserved for the finest American athletes.

We deserve more, too. For every little boy that Gatorade urges to "Be Like Mike," there should be a little girl trying to be like Jackie. Her strength, courage and integrity make her the kind of role model that everyone needs. And if advertisers can't understand that, maybe they need to start eating a lot more Wheaties.

TRIBUTE TO MARIA LARIA, TALENTED TELEVISION JOURNALIST AND HOSTESS OF CARA Á CARA

HON. ILEANA ROS-LEHTINEN

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 12, 1992

Ms. ROS-LEHTINEN. Mr. Speaker, I wish to bring to the attention of the House and of the public the achievements of Ms. Maria Laria, the expressive and gracious hostess of the popular Hispanic television talk show, Cara á Cara.

With Ms. Laria as hostess, Cara á Cara has received five Emmy nominations, among these, "Best Show" and "Best Hostess." Ms. Laria also received numerous other awards for her presentation of Cara á Cara. For example, she has been named "Best Television Journalist" by Replica; "Best Television Hostess in Hispanic Television" by "Palmas de Oro," the Mexican media awards, and "Most Popular Television Hostess" by the Caesar Award.

Among Ms. Laria's journalistic achievements are an exclusive interview with Pope John Paul II; induction into the Hispanic Hall of Fame, and a "Cara á Cara Y Maria Laria" day, which was proclaimed by Los Angeles Mayor Tom Bradley.

Ms. Laria was born in Havana, Cuba, where she lived until she was 5 years old. She has lived in Miami, New Mexico, Puerto Rico, and Boston and currently resides in Los Angeles, CA. In 1973, Ms. Laria received a bachelor of music and a masters of music, both with honors from the distinguished New England Conservatory of Music. She later studied mathematics for one year at Harvard University.

Ms. Laria's career encompasses a myriad of trajectories. She gained acclaim as a pianist in Boston, where she performed in many concerts and recitals, as well as making many television appearances. She continued her studies with journalism and acting, and performed in numerous theatrical plays. Among these plays were "Romeo and Juliet," "The Adventures of Dick Tracy," "amor sin Pasaporte," and "Ninette Y el Hombre de Murcia."

Ms. Laria hosted "El Mundo del Expectáculo," a program transmitted by the cable television station Galavision. She worked there for 5 years, and it was there that she was first recognized as a magnetic and objective interviewer. In 1987, she went on to be a news commentator for KVEA, channel 52, of Cadena Telemundo. Only 1 year after working for channel 52, Ms. Laria earned the distinction of being hostess of the first live, national Spanish language television talk show, Cara á Cara.

Ms. Laria's devotion and commitment do not end in the field of journalism. She devotes much personal time and talent to further worthwhile causes such as S.A.N.E., which strives to help our youth to say no to drugs and gangs. She is also an advocate for the Easter Seals Foundation.

Ms. Laria's latest recognition is receiving the keys to two cities in the 18th Congressional District, Hialeah and Miami. This recognition will be awarded in a press conference with Ms. Laria, in her new television set at Telemundo.

It is a privilege for our community to have a talented and gifted journalist such as Ms. Maria Laria. She is a motivated and caring individual who is an inspiration to the Hispanic and journalistic community. It is an honor to make the House and the public aware of this great journalist.

JOSEPH THURMAN "CRASH" MOORE

HON. JAMES P. MORAN

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 12, 1992

Mr. MORAN. Mr. Speaker, I rise today in memory of a dear friend, Mr. Joseph Thurman "Crash" Moore.

Crash was born as Joseph Thurman Moore in Abingdon, VA, in 1918. He earned the nickname that would serve him a lifetime during the 1930's when he played center on the football team in Virginia's public schools. Crash served his country as a member of the Armed Forces during World War II and he served this body as an employee of the Doorkeeper's Office in the House of Representatives in the 1940's.

I was well acquainted with Crash and worked closely with him when I served as mayor of Alexandria and on the Alexandria City Council. Crash was a community activist who was always there to help a friend or neighbor in need. He was a community leader who was always there to serve his city on the numerous city boards on which he served. Most importantly, Crash was always a friend who was there with me during the good times and the hard times.

Yesterday, we buried Crash at the Pleasant Valley Memorial Park in Annandale, VA, but we can never bury the spirit and the legacy of this great man.

A TRIBUTE TO ALFONSO "AL" BOFFO OF NEW PHILADELPHIA, OH

HON. DOUGLAS APPLEGATE

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 12, 1992

Mr. APPLEGATE. Mr. Speaker, an outstanding citizen of New Philadelphia, OH, recently passed into history, and with his passing Alfonso "Al" Boffo will be remembered and recognized for all that he did for his community, for his friends, and for his family.

New Philadelphia and Tuscarawas County have long been proud of the outstanding citizen that Al Boffo was, and it was just this past January that the Tuscarawas County Chamber of Commerce honored Al by entering him into their Hall of Fame. Al Boffo was a good friend and a true and outstanding citizen, but he was also a dedicated husband and father, a brother, grandfather, and a great-grandfather.

Al Boffo did so much for his fellow citizens, and especially so much for the older persons of his community. I always enjoyed meeting with him when he would travel to Washington each year along with his many friends and business colleagues with the Tuscarawas County Chamber of Commerce. His active involvement in so many different interests and activities certainly made a tremendous difference for so many of his fellow citizens who depend on the charity and the giving of those very few special individuals who really attempt to make a difference in this world.

Besides his involvement in the chamber of commerce, Al was also an active member of the American Association of Retired Persons and was named just last January as one of the organization's top 52 volunteers in the country. In 1988, Al was among 10 Ohioans selected for induction into the Ohio Senior Citizens Hall of Fame, and he was the founder of a Service Corps of Retired Executives counseling center. In 1981, Al served as a senior citizen intern in the Washington office of Senator JOHN GLENN, one of 270 senior citizens selected nationwide. Al Boffo brought so much to those around him, and all of us will long remember what he did for his community and, most of all, what he did for his family and for his many good friends.

Mr. Speaker, I'm proud and pleased to share with my colleagues in Congress the outstanding life of a very special American.

SUPPORT FOR H.R. 4961

HON. WILLIAM M. THOMAS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 12, 1992

Mr. THOMAS of California. Mr. Speaker, I hope you and our House colleagues will join me in supporting H.R. 4961, a bill which I introduced to end the current restrictions on the export of Alaskan North Slope [ANS] oil. These restrictions, while well intended, were not very well thought out. Initially, their proponents believed that by withholding this oil from export, the United States could remove itself from dependence upon foreign oil. Unfortunately, this has not occurred, and instead, these restrictions have increased our dependence upon foreign oil.

Alaskan oil is very expensive to move through the Panama Canal. As a result, about 75 percent of this oil will end up in California. Once in California, however, ANS crude competes with oil produced locally, and with California producing over 1.2 million barrels a day, there is often a considerable glut on the market. Gluts force prices to be artificially low, and therefore make California oil producers subject to extreme market pressures. A Government policy, not the market, has caused producers to cap wells—thereby ruining them for future use.

There is an alternative. Alaskan crude could be sold at world market prices to Pacific rim countries, such as Japan. This policy would help to reduce our trade deficit with these nations, while at the same time stimulating our own economy at home, with increased profits and jobs. The increased oil production in California could create employment for producers throughout the State, and at the same time provide relief to California's sagging economy.

The simple fact is that the legalization of ANS exports makes sense. That is why the Interstate Oil and Gas Compact Commission has chosen to support exporting this crude. They realize it will create jobs, it will stimulate the economy, it will reduce our trade deficit, and most importantly, it will reduce our dependence upon foreign oil. Experience has shown that today's export restrictions have not increased our energy security. It is time to install an intelligent oil production policy by passing H.R. 4961.

RESOLUTION CONCERNING EXPORT OF CRUDE OIL TRANSPORTED THROUGH THE TRANS-ALASKA PIPELINE SYSTEM

Whereas, the U.S. Congress, as a condition of its approval for the Trans-Alaska Pipeline System (TAPS) in 1973, severely restricted the export of crude oil transported through TAPS and totally prohibited such export in the Export Administration Act (EAA) of 1979; and

Whereas, every day over 1.7 million barrels of TAPS crude oil and natural gas liquids are transported to domestic markets in the lower 48, with almost 85 percent landed on the U.S. West Coast and about 15 percent on the U.S. Gulf Coast; and

Whereas, excessive TAPS crude supplies on the West Coast have caused a persistent artificial West coast crude surplus, together with forced, high transportation costs, has significantly depreciated the reserve of oil in Alaska and California, making it less attractive to explore for and develop new sources of oil or to invest in expensive enhanced recovery processes to improve recovery from existing fields; and

Whereas, the nation's domestic oil and gas industry is struggling to survive as shown by the lowest rig counts in decades, the dramatic overseas flight of capital by major producers, and the continuing decline in production by independent producers; and

Whereas, export of appropriate portions of TAPS crude would boost production and encourage additional exploration in both Alaska and California, which taken together currently account for nearly 40 percent of the U.S. total output; and

Whereas, additional exploration and development in California and Alaska will contribute significantly to the nation's economy by adding thousands of petroleum related jobs throughout the country, improving capital investment in the domestic industry and increasing national energy production; and

Whereas, simple distillation of TAPS crude yields only eight percent gasoline, California refineries must employ elaborate, high cost processing systems to upgrade TAPS crude using fluid catalytic crackers, hydrocrackers and cokers to meet California market requirements of Pacific Rim refineries; and

Whereas, export of TAPS crude to Pacific Rim markets would reduce the nation's trade deficit; and

Whereas, the U.S. has strongly urged an open trading system between nations in which market forces determine the movement of goods internationally, as witnessed by pursuit of the Free Trade Agreements with Canada and Mexico, and the gradual elimination of restrictions on the export of refined domestic crude oil products; and

Whereas, the export of TAPS crude would remove U.S. Government caused economic distortions and inefficiencies in the world's energy market and result in general U.S. public gains, especially with regard to reducing the nation's balance of trade deficit with Pacific Rim countries: Now, therefore be it

Resolved, That the Interstate Oil and Gas Compact Commission strongly urges both the Congress of the United States and the President to lift the ban on the export of crude oil transported through the Trans-Alaska Pipeline System and revise the Export Administration Act to provide free market opportunities for domestically produced crude oil, subject only to restrictions during a national security event.

INTRODUCTION OF THE 1992 RTC REVITALIZATION ACT

HON. BRUCE F. VENTO
OF MINNESOTA
IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 12, 1992

Mr. VENTO. Mr. Speaker, today I am introducing legislation entitled the 1992 RTC Revitalization Act. The bill changes the expenditure deadline from April 1, 1992 to April 1, 1993 so that the Resolution Trust Corporation may continue to use funds previously authorized by the RTC Funding and Cost Reduction Act of 1992. Institutions must be closed and liquidated. Depositors must be protected. The continued operation of these institutions multiplies and compounds the losses.

Earlier this year I voted to provide funds for the RTC which according to administration estimates, would have carried the RTC through 1993. This legislation was defeated overwhelmingly by the House of Representatives.

Although I continue to support additional funding, I have come to the conclusion that we should not at this date simply permit the RTC to use the balance of moneys previously authorized. I have concluded that we must at the same time provide, in legislation, a corrected policy path that will lead to the solution of problems that RTC has failed, or been unwilling, to address.

One of the most conspicuous regulatory shortfalls has been OTS' refusal to place institutions in conservatorship in a timely manner. Instead, Director Ryan has continued a regulatory pattern of the 1980's of forbearance that compounds rather than alleviates thrift institution problem. The RTC cannot resolve S&L institutions and pay off depositors unless the OTS has the fortitude to close these failing savings and loans. Timely closure is necessary so that RTC can more effectively dispose of assets and thereby reduce the amount that will ultimately have to be borne by the American taxpayer. While the OTS preference for denial and regulatory forbearance has been more evident this past year, frankly, situations such as Home Federal of California have been permitted to slowly bleed for years—until today this institution and others like it are brain dead.

During the 12-month period ending April 1, 1992 there was clearly a slowdown in placing thrifts in conservatorship. Why the Bush administration engaged in this slowdown has not been adequately explained. It was not funding because the RTC turned back many billions in authorizations on April 1, 1992.

The Administration has allowed the Director of OTS to aggressively seek permission from the Thrift Depositor Protection Oversight Board to keep thrifts open by promoting mergers between healthy thrifts and failed thrifts. However, in order to accomplish this they propose to use taxpayer funds authorized to protect depositors for capital in these mergers. In reality, they want to protect stockholders who should be at risk in the marketplace, not leaning on the Federal taxpayers.

While this unusual plan has been proffered throughout 1992, the administration has not given any indication of whether it will go ahead. No doubt once funding is in place we will learn the answer and I fear that it will be a ringing endorsement of a Government subsidy by these pseudo-free-enterprise advocates. I strongly believe such policy would violate the intent of Congress and the letter of the 1989 FIRREA law. Therefore, my legislation would make it illegal to use taxpayer dollars for this purpose.

A corollary principle is that when an institution's capital falls below the 2 percent minimum tripwire, such financial institution ought not be retained by the Office of Thrift Supervision, but should be more promptly transferred to the RTC. My bill will mandate this action so that having authorized RTC to move forward, Members can be confident that institutions being held open by OTS because of their inhibition, for whatever reason, to place it in conservatorship will be transferred to RTC.

In the intensity of this political year, many have not noticed the heated argument going on between the Office of Thrift Supervision and the Congress about the number of savings and loan institutions that will require Government attention. Director Ryan claims that there are at most 70 institutions that are likely to fail, and most of those can be resolved short of a straight deposit payout. On the other hand, the Congressional Budget Office has maintained that there may be as many as 700 institutions in trouble within the next 5 years and the most economical solution in the long run is to liquidate them. We also have the testimony of two experts on financial institutions that there are over 800 savings and loans whose capital position indicates that they probably cannot be saved.

Who is right? To a certain extent it does not matter if there are only 75 or 100 institutions as predicted by Mr. Ryan, because those institutions will cost the American taxpayer billions of dollars all in themselves. Yet how good has the Reagan or Bush administration been with its predictions? Not very good. The last time a Presidential election was looming, we heard that the entire problems could be solved with $15 billion. After the election, the number became $110 billion. And within a year was $220 billion.

We ought not regard the savings and loan bailout as if we were going to experience the most favorable outcome. Congress and the people we represent would be best served with reality rather than unbridled election year optimism. Congress should be ready and prepared to deal with the problems as they are, not as some wish them to be. The legislation I am introducing today will assure that we do not put our heads in the sand, that we do not just whistle past the graveyard.

There are some activities that the Resolution Trust Corporation has done in its 3 year history that it has done satisfactorily, given the size and complexity of its task. But there are many actions in these past three years that seriously concern me.

Originally, the RTC was declared to be a mixed ownership Government corporation. Consequently, it could pick and chose amongst the statutes it would abide by in conducting its activities. Thus we reaped the worst of both the private sector world and the Government world. It is time to end this waste of effort and make the RTC into a wholly owned Government corporation. This will effectively make it a Government agency albeit a temporary one. The RTC has also had unusual difficulty solving other managerial and organizational matters—it failed to obtain a management information system that would provide basic data on the institutions and assets it was charged with resolving and selling and now proposes to do without any comprehensive system at all. As a result, among other things: First, it was unable to reconcile its books with those of institutions; second, it was unable to specify properties that were suitable for inclusion in asset sale pools; and third, it was unable to assure that services were received for payments made. These shortcomings will also be corrected.

The real task of the RTC, it is now realized, is the disposition of assets of failed institutions. Unfortunately, too often the RTC has exercised poor judgment in selling assets—offering prices and terms of financing that are overly generous; placing properties that have pending offers at higher prices into bulk pools at lower prices; providing guaranteed returns to such purchasers; securitizing loans that are so varied that there is no viable secondary market. These shortcomings are addressed and corrected by my proposed legislation.

The RTC was to utilize the private sector in its activities. They have done so and the bill so far is $8 billion for services rendered. It is time to find out whether this huge cost indicates that the private sector has been used too often and too much.

In all of its activities, the RTC calls upon individuals and organizations to collect payments, review records, manage properties, appraise property, securitize loans, sell junk bonds, produce accounting statements, sell real estate, prosecute lawsuits, supply insurance, clear real estate titles, conduct settlements, and even monitor each other. Quite a number of these individuals and organizations had previously worked with and for, or borrowed from the very savings and loans that have become a Government responsibility. Yet almost invariably, and certainly routinely, the conflicts of interest that these individuals and organizations have, are excused. This must halt and my bill brings these practices to a stop.

Akin to the conflict of interest problems of the RTC and its private contractors, is the revolving door the S&L executive and regulatory culture between high level RTC staff and those firms that do business with the RTC or with savings and loan associations. The RTC was not meant to last forever, and it does require highly skilled, capable personnel. Yet the public deserves to know that there are at least basic protections against transfers of confidential information and against self-dealing in the process of recruiting and replacing staff.

We have come to learn that the savings and loans institutions that failed, did not fail for purely economic reasons, but because in many instances there was fraud, self-dealing, negligence and inattention from officers, employees, and professionals involved in these institutions. Given the public investment in insuring such shortfalls, it is inappropriate that those who were in charge of such S&L's should now profit from the bailout—this legislation stops such policies.

In the resolution of these institutions, the RTC has a fiduciary obligation to pursue civil

and criminal claims against those who caused the losses and failures. The RTC must do better in collecting fines and penalties. The RTC must do better in pursuing wrongdoers. My bill will accomplish this.

The RTC can and must be improved. The legislation I am introducing today will promote that improvement. I ask that the text of the bill be reproduced in the RECORD.

H.R. 5905

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Resolution Trust Corporation Revitalization Act of 1992".

SEC. 2. FINDINGS AND PURPOSES.

(a) FINDINGS.—The Congress hereby finds the following:

(1) The resolution of failed and failing savings associations continues to consume enormous amounts of taxpayer dollars and requires extraordinary effort and resources.

(2) The prompt seizure and closure of failed institutions reduces the losses incurred by the taxpayers and the economy.

(3) The methods for resolving savings associations by the Resolution Trust Corporation have a significant impact on the long-term overall costs of the effort.

(4) The methods chosen by the Resolution Trust Corporation for the sale of assets has a significant impact on the amount of the proceeds realized on the sale and the amount of risk continued to be held by the Federal Government with respect to such assets after the sale.

(5) The diligence and efficiency of the Resolution Trust Corporation can and should be improved through—

(A) the application of practices required of all Federal agencies;

(B) the creation and operation of a comprehensive, automated management information, tracking, and analysis system;

(C) the uniform application of strict conflict of interest and post-employment restrictions that allow waivers only in exceptional circumstances; and

(D) the disclosure of information about the condition of savings associations and any regulatory action with respect to such associations.

(b) PURPOSES.—The purposes of this Act are as follows:

(1) To provide for the continued prosecution of civil and criminal actions against the persons responsible for the failure of savings associations without delay or abatement.

(2) To require that the operations of the Resolution Trust Corporation and the Office of Thrift Supervision be closely coordinated, funded, and monitored to assure that the least costly method of resolving savings associations and disposing of assets is realized in each case.

(3) To require the Resolution Trust Corporation to implement a process under which the Corporation shall obtain, process, and analyze information about the institutions and assets under the jurisdiction and control of the Corporation in order to monitor the implementation of policies and procedures and to assess the consequences of the Corporation's actions.

(4) To provide for the completion of the resolution process without using taxpayers funds to recapitalize or make investments in private savings associations.

TITLE I—FUNDING

SEC. 101. EXPENDITURE DEADLINE.

Section 21A(b)(13)(A) of the Federal Home Loan Bank Act (12 U.S.C. 1441a(b)(13)(A)) is amended to read as follows:

"(A) FUNDS FROM TREASURY.—The Secretary of the Treasury shall provide the Corporation with the sum of $18,700,000,000 for the period beginning on the date of the enactment of the Resolution Trust Corporation Amendments of 1992 and ending on March 31, 1993.".

SEC. 102. BORROWING ADDITIONAL AMOUNT.

Section 21A(b)(9)(M) of the Federal Home Loan Bank Act (12 U.S.C. 1441a(b)(9)(M)) is amended to read as follows:

"(M) To exercise any other power established under this section and such incidental powers as are necessary to carry out its duties and functions under this section, except that, in calculating the limitation on borrowing contained in section 21A(j)(1)(B)(ii), the Corporation shall not count as borrowed funds those monies received from contributions or from payments by the Treasury.".

SEC. 103. MAXIMUM OBLIGATION LIMITATION OF RTC.

Section 21A(j)(1) of the Federal Home Loan Bank Act (12 U.S.C. 1441a(j)(1)(B)) is amended by striking "$50,000,000,000" and inserting "$30,000,000,000".

SEC. 104. RTC BORROWING LIMITED TO FEDERAL FINANCING BANK.

Section 21A(i)(1) of the Federal Home Loan Bank Act (12 U.S.C. 1441a(i)(1)) is amended by adding the following new subparagraph:

"(C) ADDITIONAL BORROWING.—The Corporation is authorized to borrow only from the Treasury or from the Federal Financing Bank.".

TITLE II—INSTITUTIONAL RESOLUTION

SEC. 201. EVALUATION OF ASSETS AND SALES OF MORTGAGORS.

Section 21A(b)(4) of the Federal Home Loan Bank Act (12 U.S.C. 1441a(b)(4)) is amended by adding at the end the following new subparagraph:

"(C) REQUIRED PRACTICES.—The Corporation shall—

"(i) immediately upon the appointment of the Corporation as a conservator or receiver of an insured depository institution, undertake to prepare a detailed description and valuation of each asset of the institution; and

"(ii) to the maximum extent practicable, arrange for the sale of performing mortgages which are held by any insured depository institution during the period in which the Corporation is the conservator for such institution.".

SEC. 202. RESTRICTION ON USE OF RTC FUNDS.

(a) REPEAL OF DISCRETIONARY PAYMENT AUTHORITY.—Section 11(a)(6) of the Federal Deposit Insurance Act (12 U.S.C. 1821(a)(6)) is amended by striking subparagraph (H) and by redesignating subparagraphs (I) and (J) as subparagraphs (H) and (I), respectively.

(b) LIMITATION ON RTC CAPITAL CONTRIBUTION AUTHORITY.—Section 21A(b)(4) of the Federal Home Loan Bank Act (12 U.S.C. 1441a(b)(4)) is amended by adding after subparagraph (C) (as added by section 201 of this Act) the following new subparagraph:

"(D) LIMITATION ON CAPITAL CONTRIBUTION AUTHORITY.—

"(i) IN GENERAL.—Notwithstanding subparagraph (A), the Corporation may not make any payment in the form of a capital contribution to a depository institution which, at the time of the payment, is an institution for which the Corporation or any other person is acting as conservator.

"(ii) LENDING AUTHORITY NOT AFFECTED.—Clause (i) shall not be construed as prohibiting the Corporation from making loans or advances to any such institution.".

TITLE III—ASSET SALES

SEC. 301. CASH-FLOW MORTGAGES PROHIBITED.

Section 21A(b)(4) of the Federal Home Loan Bank Act (12 U.S.C. 1441a(b)(4)) is amended by inserting after subparagraph (D) (as added by section 202 of this Act) the following new subparagraph:

"(E) PROHIBITED PRACTICES.—The Corporation may not use any authority under this subsection to engage in any of the following activities:

"(i) To sell assets of an uninsured depository institution by providing a loan for any portion of the purchase price which—

"(I) defers or delays the payment of interest; or

"(II) obligates the purchaser to pay interest only out of the net income realized by the purchaser from the assets.".

SEC. 302. SECURITIZATION LIMITED.

Section 21A(b)(4) of the Federal Home Loan Bank Act (12 U.S.C. 1441a(b)(4)) is amended by inserting after clause (i) of subparagraph (E) (as added by section 301 of this title) the following new clause:

"(ii) To arrange for the securitization of the loan assets of an insured depository institution unless the assets—

"(I) have been evaluated using similar underwriting standards and criteria;

"(II) have long average maturities;

"(III) do not require balloon payments of principal; and

"(IV) provide for the payment of interest at rates that are based upon the same indexes,

and unless any representation or warranty offered with the security does not guarantee to the purchaser of the securities, directly or indirectly, an investment return.".

SEC. 303. BULK SALES OF ASSETS PROHIBITED.

Section 21A(b)(4) of the Federal Home Loan Bank Act (12 U.S.C. 1441a(b)(4)) is amended by inserting after clause (ii) of subparagraph (E) (as added by section 302 of this title) the following new clause:

"(iii) require the inclusion of an asset of an insured depository institution in a bulk sale of assets if the Corporation has received a good faith offer to purchase the asset for a price and on terms that would result in proceeds to the Corporation in excess of those that would be realized for that asset in the bulk sale.".

TITLE IV—REGULATORY MEASURES

SEC. 401. 2 PERCENT CAPITAL CUT-OFF.

(a) IN GENERAL.—Section 38(h)(3) of the Federal Deposit Insurance Act (12 U.S.C. 1831o(h)(3)) is amended to read as follows:

"(3) CONSERVATORSHIP OR RECEIVERSHIP REQUIRED.—

"(A) IN GENERAL.—Before the end of the 180-day period beginning on the date any insured depository institution becomes critically undercapitalized and notwithstanding any provision of State law, the appropriate Federal banking agency shall appoint a receiver or, with the approval of the Corporation, a conservator for such institution.

"(B) APPOINTMENT OF RECEIVER REQUIRED IF OTHER ACTION FAILS TO RESTORE CAPITAL.—In the case of any institution described in subparagraph (A) for which a receiver was not appointed before the end of the 180-day period referred to in such subparagraph, the appropriate Federal banking agency shall, notwithstanding any provision of State law, appoint a receiver for such institution as follows:

"(i) If the capital of such institution does not exceed the critical capital level at the end of the 9-month period beginning on the date action is first taken by the agency under subparagraph (A) with respect to such institution, a receiver shall be appointed by the end of such period.

"(ii) If the capital of such institution exceeds the critical capital level at the end of such 9-month period but fails to exceed such level at the end of any of the first 3 months following such period, a receiver shall be appointed as of the end of such month.

"(C) ACQUISITION BY ANOTHER INSURED DEPOSITORY INSTITUTION.—Notwithstanding the requirement under subparagraph (A) to appoint a conservator or receiver for an insured depository institution and subject to section 13, the appropriate Federal banking agency may require the insured depository institution to be acquired (as defined in section 13(f)(8)(B)) by another insured depository institution which offers to acquire such institution if the agency determines, with the concurrence of the Corporation, that such acquisition would resolve the capital problems of the institution in a manner that is least costly to the affected deposit insurance fund.".

SEC. 402. PUBLIC AVAILABILITY OF EXAMINATION INFORMATION.

(a) AVAILABILITY REQUIRED FOR CERTAIN INSTITUTIONS.—

(1) IN GENERAL.—Each appropriate banking agency shall make available to the public copies of reports of all examinations of each failed depository institution that received funds, as defined in section 406, or of a holding company of such institution, that was performed by that banking agency or its predecessor, during the 5-year period preceding the transfer, failure, or receipt of funds.

(2) CONSULTATION.—Each appropriate banking agency other than the National Credit Union Administration Board shall consult with the Federal Deposit Insurance Corporation or the Resolution Trust Corporation prior to making such reports available to the public.

(b) DELAY OF PUBLICATION.—

(1) THREATS TO SAFETY OR SOUNDNESS OF INSTITUTION.—

(A) IN GENERAL.—If the appropriate banking agency makes a determination in writing that release of an examination report would seriously threaten the safety or soundness of an insured depository institution, such agency may initially delay release of the examination report for a reasonable period of time, not to exceed 12 months from the date of the transfer, failure, or receipt of funds described in section 406.

(B) EXTENSION OF DELAY.—Any determination under subparagraph (A) may be renewed on an annual basis.

(2) ONGOING INVESTIGATIONS.—If the appropriate banking agency or the Resolution Trust Corporation determines in writing that release of a portion of an examination report would hinder an ongoing investigation of alleged negligence, or of other activity that would give rise to either administrative or civil proceedings, the portion of the examination report directly pertaining to the alleged negligence or other activity, may be withheld from release during the investigation, until the earliest of—

(A) the date a notice of charges is issued;

(B) the date a complaint is filed; or

(C) the end of a period not to exceed 24 months from the date of the transfer, failure, or receipt of funds described in section 406.

(3) DELAY PENDING CRIMINAL INVESTIGATION.—

(A) IN GENERAL.—If the appropriate banking agency and the Attorney General of the United States or, in the case of a State-chartered depository institution, the attorney general of a State, jointly determine that release of a portion of an examination report would hinder an ongoing investigation of alleged criminal activity, the portion of the examination report directly pertaining to the alleged crime may be withheld from release until the earliest of—

(i) the termination of such investigation;

(ii) the issuance of an indictment; or

(iii) the end of a period not to exceed 5 years from the date of the transfer, failure or receipt of funds described in section 406, whichever is earlier.

(B) GAO ACCESS TO INFORMATION.—The Attorney General of the United States or the attorney general of a State shall provide the Comptroller General of the United States with access to information regarding any such criminal investigation, and shall identify any law enforcement agencies or resources assigned to the investigation.

(c) EXCLUSION OF OPEN INSTITUTIONS.—

(1) OPEN INSTITUTIONS.—This section shall not apply to any open insured depository institution and shall not be construed to require disclosure to the public of any report of examination of any open insured depository institution.

(2) AFFILIATED SOLVENT INSTITUTIONS.—In connection with the release of an examination report of a holding company of a failed institution, nothing in this section shall be construed as requiring the release of any examination report information regarding any solvent depository institution that is also a subsidiary of such holding company.

SEC. 403. PROHIBITION OF CONFIDENTIAL SETTLEMENTS.

Notwithstanding any other provision of law or any regulation or order, any agreement or settlement of claims between the Resolution Trust Corporation or the Federal Deposit Insurance Corporation and any other party which relates to an institution described in section 406 shall be made available to the public.

SEC. 404. APPLICABILITY.

The requirements of section 402 shall apply—

(1) to any insured depository institution that has had its assets or liabilities, or any part thereof, transferred to the FSLIC Resolution Fund or the Resolution Trust Corporation;

(2) to any Bank Insurance Fund member that has failed and received funds, if during either the fiscal year in which the institution failed or the fiscal year in which the institution received funds, as defined in section 406, the Bank Insurance Fund—

(A) had outstanding loans, or had otherwise received funds, from the Department of the Treasury, the Federal Financing Bank, or any Federal Reserve bank; or

(B) had a negative fund balance;

(3) to any Savings Association Insurance Fund member that has failed and received funds, if during either the fiscal year in which the institution failed or the fiscal year in which the institution received funds, as defined in section 406, the Savings Association Insurance Fund—

(A) had outstanding loans, or had otherwise received funds, from the Department of the Treasury, the Federal Financing Bank, or any Federal Reserve bank; or

(B) had a negative fund balance; and

(4) to any insured credit union that has failed and received funds, if during either the fiscal year in which the credit union failed or the fiscal year in which the credit union received funds, as defined in section 406, the National Credit Union Share Insurance Fund—

(A) had outstanding loans, or had otherwise received funds, from the Department of the Treasury, the Federal Financing Bank, or any Federal Reserve Bank; or

(B) had a negative fund balance.

SEC. 405. REMOVAL OF CUSTOMER INFORMATION FROM EXAMINATION REPORTS.

In making available reports of examinations under section 402, each appropriate Federal banking agency shall excise the following information:

(1) NONINSTITUTION-AFFILIATED PARTIES.—The name of any person who is not an institution-affiliated party with respect to an insured depository institution and any other identifying information with respect to any such person.

(2) INSTITUTION-AFFILIATED PARTIES.—The name of any institution-affiliated party and any information relating to an institution-affiliated party that is not relevant to the relationship between the insured depository institution and the party.

(3) OPEN INSTITUTIONS.—The name of any open insured depository institution and any other identifying information with respect to any such institution.

(4) EXAMINERS.—Any reference to any examiner or other banking agency employee involved in the examination of the insured depository institution.

(5) WHISTLEBLOWERS.—Any reference to any person who has provided information in confidence to a banking agency which may be utilized to pursue a civil or criminal action.

SEC. 406. DEFINITIONS.

For purposes of this section—

(1) an insured depository institution has "failed" if the Federal Deposit Insurance Corporation, Resolution Trust Corporation, or National Credit Union Administration Board—

(A) has been appointed as receiver or liquidating agent for such institution; or

(B) has exercised the power to provide assistance under section 13(c)(2) of the Federal Deposit Insurance Act or the analogous powers under section 21A of the Federal Home Loan Bank Act;

(2) an insured depository institution has "received funds" if the institution, any company that controls such institution, or any acquiring institution receives cash or other valuable consideration from the National Credit Union Administration Board, the Resolution Trust Corporation, the Federal Deposit Insurance Corporation, or any Federal Reserve bank that lends for more than 30 days while the insured depository institution is critically undercapitalized within the 1-year period before the failure of the insured depository institution whether in the form of a loan, a payment to depositors or other creditors, the assumption of liabilities, or otherwise;

(3) the term "insured depository institution" has the same meaning as in section 3 of the Federal Deposit Insurance Act, except that such term includes an insured credit union, as defined in section 101 of the Federal Credit Union Act; and

(4) the term "appropriate banking agency" means the Federal Deposit Insurance Corporation, the Board of Governors of the Federal Reserve System, the Comptroller of the Currency, the Office of Thrift Supervision, or the National Credit Union Administration Board, and, in the case of a State-chartered depository institution, the appropriate State depository institution regulatory agency.

SEC. 407. ADDITIONAL DISCLOSURES BY FDIC, NCUA, AND RTC.

(a) BORROWERS.—Not later than 6 months after being appointed receiver or liquidating agent for any failed institution that received funds, as defined in section 406, the Federal Deposit Insurance Corporation, the National Credit Union Administration, or the Resolution Trust Corporation, as appropriate, shall make available to the public the name and loan balance of any borrower who—

(1) was an executive officer, director, or principal shareholder of the institution, or a related interest of any such person, as such terms are defined in section 22(h) of the Federal Reserve Act; and

(2) at the time that the receiver was appointed, was more than 90 days delinquent on a loan.

(b) TRANSACTIONS.—Not later than 12 months after being appointed receiver or liquidating agent for any failed institution that received funds, as defined in section 406, the Federal Deposit Insurance Corporation, the National Credit Union Administration Board, or the Resolution Trust Corporation shall make available, and update periodically thereafter, a list of pending and settled lawsuits brought by such agency involving transactions (other than loans described in subsection (a)) that caused a material loss to such institution or to the deposit insurance fund.

SEC. 408. GAO AUDITS.

(a) IN GENERAL.—The Comptroller General of the United States shall selectively audit examination reports made available to the public by the appropriate Federal banking agencies under section 402, and disclosures made by the Federal Deposit Insurance Corporation, National Credit Union Administration, and Resolution Trust Corporation under section 407, to assess compliance with the requirements of those sections.

(b) NATURE, SCOPE, TERMS, AND CONDITIONS.—The Comptroller General shall determine the nature, scope, terms, and conditions of audits conducted under this section.

TITLE V—MANAGEMENT OF RTC

SEC. 501. LIMITATION ON CONFLICTS OF INTEREST.

(a) PROHIBITION ON WAIVERS.—Section 21A(n)(6)(B) of the Federal Home Loan Bank Act (12 U.S.C. 1441a(n)(6)(B)) is amended to read as follows:

"(B) PROHIBITION FROM SERVICE ON BEHALF OF CORPORATION.—The Corporation shall prohibit any person, or any principal of a corporation, partnership, organization or association, or other entity, who does not meet the minimum standards of competence, experience, integrity, and fitness from—

"(i) entering into any contract with the Corporation; or

"(ii) being employed by the Corporation or any person, corporation, partnership, other organization or association, or other entity performing any service for or on behalf of the Corporation.

This prohibition may not be waived by the Corporation unless the person or principal disaffiliates from the corporation, partnership, organization or association, or other entity. It shall be insufficient disaffiliation to merely cease involvement with matters covered by any contract or agreement with the Corporation or with any insured depository institution.".

(b) DEFINITION.—Section 21A(n)(9) of the Federal Home Loan Bank Act (12 U.S.C. 1441a(n)(9)) is amended by adding the following new subparagraph:

"(D) PRINCIPAL.—The term 'principal' means—

"(i) any officer, director, owner, partner, key employee, or other person with primary management or supervisory responsibilities; and

"(ii) any person who has a critical influence on or substantial control over another person (as defined in section 1 of title 1, United States Code), whether or not employed by such other person.".

(c) SALES OF ASSETS TO CERTAIN PERSONS PROHIBITED.—Section 21A(f) of the Federal Home Loan Bank Act (12 U.S.C. 1441a(f)) is amended to read as follows:

"(f) LIMITATION ON CERTAIN CORPORATION ACTIVITIES.—

"(1) CERTAIN SALES PROHIBITED.—The Corporation shall prohibit the sale of assets of any failed depository institution by the Corporation to any person—

"(A) who—

"(i) has defaulted, or was a member of a partnership or an officer or director of a corporation which defaulted on one or more obligations the aggregate amount of which exceeds $1,000,000 to any failed depository institution;

"(ii) has been found to have engaged in fraudulent activity in connection with any obligation referred to in clause (i); and

"(iii) proposes to purchase any asset in whole or in part through the use of the proceeds of a loan or advance of credit from the Corporation or from any insured depository institution;

"(B) who participated as an officer or director of such failed depository institution or of any affiliate of such institution, in a material way in transactions that resulted in a substantial loss to such failed depository institution;

"(C) who has been removed from, or prohibited from participating in the affairs of any failed depository institution pursuant to any final enforcement action by an appropriate Federal banking agency; or

"(D) who has demonstrated a pattern or practice of defalcation regarding obligations to any failed depository institution.

"(2) SETTLEMENT OF CLAIMS; DEFINITIONS.—

"(A) SETTLEMENT OF CLAIMS.—Nothing in this subsection shall prohibit the Corporation from selling or otherwise transferring any asset to any person if the sale or transfer of the asset resolves or settles, or is part of the resolution or settlement of, an obligation owed by the person to any failed depository institution or to the Corporation.

"(B) DEFINITIONS.—For purposes of paragraph (1)—

"(i) DEFAULT.—The term 'default' means a failure to comply with the terms of a loan or other obligation to such an extent that the property securing the obligation is foreclosed.

"(ii) AFFILIATE.—The term 'affiliate' has the meaning given to such term in section 2(k) of the Bank Holding Company Act of 1956.".

(d) PROHIBITION ON REVOLVING DOOR.—Section 21A(n)(4) of the Federal Home Loan Bank Act (12 U.S.C. 1441a(n)(4)) is amended by striking "The chief executive officer of the Corporation" and inserting "Any officer or employee of the Corporation whose annual rate of basic pay is equal to or greater than the minimum annual rate of basic pay in effect for grade GS-15 of the General Schedule".

SEC. 502. DESIGNATION OF RTC AS WHOLLY-OWNED GOVERNMENT CORPORATION.

(a) IN GENERAL.—Section 21A(b)(1)(A) of the Federal Home Loan Bank Act (12 U.S.C. 1441a(b)(1)(A)) is amended to read as follows:

"(A) IN GENERAL.—There is hereby established a wholly-owned Corporation to be known as the Resolution Trust Corporation which shall be an instrumentality of the United States.".

(b) TECHNICAL AND CONFORMING AMENDMENTS.—

(1) Section 21A(b) of the Federal Home Loan Bank Act (12 U.S.C. 1441a(b)) is amended by striking paragraph (2).

(2) Section 9101(2) of title 31, United States Code, is amended by striking subparagraph (L).

(3) Section 9101(3) of title 31, United States Code, is amended by adding at the end the following new subparagraph:

"(N) the Resolution Trust Corporation.".

SEC. 503. EXTENSION OF CERTAIN STATUTES OF LIMITATION.

(a) EXTENSION OF STATUTE OF LIMITATIONS.—

(1) DEPOSITORY INSTITUTIONS OTHER THAN CREDIT UNIONS.—Section 11(d)(14)(A)(ii)(I) of the Federal Deposit Insurance Act (12 U.S.C. 1821(d)(14)(A)(ii)(I)) is amended by striking "3-year period" and inserting "6-year period".

(2) CREDIT UNIONS.—Section 207(b)(14)(A)(ii)(I) of the Federal Credit Union Act (12 U.S.C. 17871(b)(14)(A)(ii)(I)) is amended by striking "3-year period" and inserting "6-year period".

(b) PRESERVATION OF CLAIMS.—Notwithstanding any provision of Federal or State law that would set an earlier deadline for filing suit, for purposes of this section, an action may be brought by a Federal conservator or receiver on any claim if the institution, or such institution's predecessors, could have brought an action on the claim at any time within the 6-year period prior to the appointment of the Federal conservator or receiver, even if the action could not have been brought by the institution or its predecessors immediately prior to the time of the appointment of the Federal conservator or receiver. This section shall apply to all such actions despite the fact that the Federal conservator or receiver may have been appointed prior to the date of enactment of this provision.

(c) EFFECTIVE DATES.—

(1) DEPOSITORY INSTITUTIONS OTHER THAN CREDIT UNIONS.—The amendment made by section 2(a) shall take effect as if such amendment had been included in the amendment made by section 212(a) of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 as of the effective date of such section.

(2) CREDIT UNIONS.—The amendment made by section 2(b) shall take effect as if such amendment had been included in the amendment made by section 1217(a)(4) of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 as of the effective date of such section.

SEC. 504. IMPROVEMENTS IN COLLECTION OF COURT-ORDERED RESTITUTION IN CASES OF FINANCIAL INSTITUTION FRAUD.

(a) IN GENERAL.—Section 8 of the Federal Deposit Insurance Act (12 U.S.C. 1818) is amended by adding at the end the following new subsection:

"(w) SPECIAL RULES RELATING TO BANKING LAW CONVICTIONS.

"(1) PREJUDGMENT ATTACHMENT OF PROCEEDS OF BANKING LAW VIOLATION.—In the case of any property obtained by any person as a result of any act which the Attorney General has probable cause to believe is a banking law violation or any property traceable to any such act, such property may be

treated as property obtained from a banking law violation, or as property traceable to such violation, for purposes of section 1345(a)(2) of title 18, United States Code.

"(2) RESTITUTION DUE UPON ISSUANCE OF ORDER.—Notwithstanding paragraph (1) of section 3663(f), in the case of an order of restitution issued in connection with a conviction for a banking law violation, restitution shall be due in full as of the date of the order.

"(3) RESTITUTION ORDER ENFORCEABLE UNTIL PAID.—Notwithstanding any provision of section 3663 of title 18, United States Code, any restitution order issued under such section in connection with a conviction for a banking law violation shall remain enforceable under such title until the total amount of restitution has been paid.

"(4) ENFORCEMENT OF RESTITUTION ORDER AS A LIEN.—In addition to the enforcement authority under subsection (h) of section 3663 of title 18, United States Code, a restitution order issued under such section in connection with a banking law violation—

"(A) shall constitute a lien against all of the defendant's property; and

"(B) may be recorded as a lien in any appropriate Federal or State office for the recording of liens against real or personal property.

"(5) APPOINTMENT OF TEMPORARY RECEIVER.—In the case of any action to enforce a restitution order issued under section 3663 of title 18, United States Code, in connection with a banking law violation, the court—

"(A) on the motion of—

"(i) a recipient of restitution under the order; or

"(ii) any person authorized to act on behalf of any such recipient; or

"(B) on the court's own motion,

may appoint a temporary receiver to administer the defendant's assets to ensure payment of restitution pursuant to the order to the maximum possible extent.

"(6) DISCLOSURE OF FINANCIAL INFORMATION IN PRESENTENCE REPORT TO RECIPIENTS OF RESTITUTION.—In any case in which a restitution order has been issued under section 3663 of title 18, United States Code, in connection with a banking law violation, any financial information relating to the defendant which is contained in the report on the presentence investigation conducted pursuant to Rule 32(c) of the Federal Rules of Criminal Procedure with respect to such violation shall be made available by the court after the sentencing of the defendant to any recipient of restitution under the order and any person authorized to act on behalf of any such recipient, including any person who files an action on behalf of the Corporation under subsection (x).

"(7) PAYMENT OF RESTITUTION DIRECTLY TO AGENCY.—

"(A) IN GENERAL.—Notwithstanding any provision of section 3663 of title 18, United States Code, or the terms of any restitution order issued under such section in connection with a banking law violation before the date of the enactment of the Financial Institution Restitution Collection Improvement Act of 1992, that portion of the amount of restitution under any order under such section which accrues to the benefit of the Corporation in accordance with such order, including any amount accruing to the Corporation in the Corporation's capacity as conservator or receiver for an insured depository institution, shall be paid directly to the Corporation by the defendant subject to the restitution order.

"(B) NOTICE BY CORPORATION.—If the Corporation succeeds to the interest of any person receiving restitution under section 3663 of title 18, United States Code, in connection with a banking law violation, the Corporation shall promptly notify the defendant who is subject to the restitution order of the amount which shall be paid directly to the Corporation and the procedure for making such payment.

"(C) PROCEDURES.—The Corporation, the Attorney General, and the Director of the Administrative Office of the United States Courts shall establish procedures for providing notice to any appropriate officer or employee of the United States, any appropriate court of the United States, or any other interested party to any restitution order issued under section 3663 of title 18, United States Code, in connection with a banking law violation that the Corporation has succeeded to the interest of any person receiving restitution under such order.

"(D) APPLICABILITY TO RTC AND NCUA.—If any portion of the amount of any restitution ordered under section 3663 of title 18, United States Code, accrues to the benefit of the Resolution Trust Corporation or the National Credit Union Administration, subparagraphs (A), (B), and (C) shall be applied by substituting 'Resolution Trust Corporation' or 'National Credit Union Administration', as the case may be, for 'Corporation' each place such term appears.

"(E) SCOPE OF APPLICATION.—This paragraph shall apply with respect to restitution payable under any restitution order issued under section 3663 of title 18, United States Code, without regard to the date of issue of the order.

"(8) CONSIDERATION OF DEFENDANT'S ABILITY TO PAY PROHIBITED.—In determining the amount of any restitution ordered under section 3663 of title 18, United States Code, in connection with a banking law violation or making any determination under section 3663(g) of such title with respect to any defendant who is subject to such order, the court shall not take into account the ability of the defendant to pay.

"(9) NOTICE TO RECIPIENT OF RESTITUTION.—If the full amount of restitution required to be paid by a defendant pursuant to a restitution order issued under section 3663 of title 18, United States Code, in connection with a banking law violation has not been paid before the end of any period of supervised release of such defendant pursuant to the sentence of the court, the United States Parole Commission or the probation officer of a district court of the United States, as the case may be, shall provide notice of the end of such period to each recipient of restitution under such order who has not been fully repaid.

"(10) BANKING LAW VIOLATION DEFINED.—For purposes of this subsection and subsection (x), the term 'banking law violation' has the meaning given to such term in section 3322(d) of title 18, United States Code.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect at the end of the 90-day period beginning on the date of the enactment of this Act and shall apply with respect to any banking law violation or restitution order issued under section 3663 of title 18, United States Code, in connection with any such violation without regard to the date on which the violation was committed or the date of issue of the order.

SEC. 505. PRIVATE ACTIONS TO COLLECT RESTITUTION.

(a) IN GENERAL.—Section 8 of the Federal Deposit Insurance Act (12 U.S.C. 1818) is amended by inserting after subsection (w) (as added by section 504 of this title) the following new subsection:

"(x) PRIVATE ACTIONS TO COLLECT RESTITUTION ORDERED IN CONNECTION WITH BANKING LAW VIOLATIONS.—

"(1) IN GENERAL.—If any portion of the amount of restitution ordered under section 3663 of title 18, United States Code, for which the Corporation is the recipient, including any amount accruing to the Corporation in the Corporation's capacity as conservator or receiver for any insured depository institution which is a recipient under the order, remains outstanding at the end of the 6-month period beginning on the later of—

"(A) the date the restitution order is issued; or

"(B) in the case of any such depository institution, the date of the appointment of the Corporation as conservator or receiver for the depository institution,

any person may file an action in a Federal or State court of competent jurisdiction to recover, on behalf of the Corporation, any asset of, or traceable to, any person liable for such portion of the restitution in satisfaction of the order.

"(2) SHARE OF ASSETS.—Subject to paragraph (9), if any asset is recovered on behalf of the Corporation in an action under paragraph (1), the person who brought the action shall be entitled to receive from the Corporation an amount equal to the sum of—

"(A) 30 percent of that portion of the recovery value of all the assets recovered pursuant to such action which does not exceed $1,000,000;

"(B) 20 percent of that portion of the recovery value of all the assets recovered pursuant to such action which exceeds $1,000,000 and does not exceed $5,000,000;

"(C) 10 percent of that portion of the recovery value of all the assets recovered pursuant to such action which exceeds $5,000,000 and does not exceed $10,000,000; and

"(D) 5 percent of that portion of the recovery value of all the assets recovered pursuant to such action which exceeds $10,000,000.

"(3) DOUBLE AWARDS PROHIBITED.—No person who receives, pursuant to paragraph (2), any share of an asset recovered in an action under paragraph (1) shall be entitled to receive or retain any reward under section 34 of the Federal Deposit Insurance Act or section 3059A of title 18, United States Code, for providing any information relating to such asset.

"(4) PROTECTION OF MOVING PARTY.—The provisions of section 3059A(e) of title 18, United States Code, shall apply with respect to any person who brings an action under paragraph (1) in the same manner as such provisions apply to any person described in such section.

"(5) NOTICE TO CORPORATION.—Any person who brings an action under this subsection shall promptly notify the Corporation of—

"(A) the filing of any action under this section;

"(B) any final judgment or order with regard to such action; and

"(C) any settlement discussions among the parties to such action.

"(6) SETTLEMENT WITHOUT FDIC CONSENT PROHIBITED.—No settlement agreement with regard to any action under paragraph (1) may be entered into or agreed to by any person who brought the action on behalf of the Corporation without the prior written consent of the Corporation.

"(7) COUNTERCLAIMS.—If a counterclaim is filed in any action under paragraph (1), no action may be taken in connection with such

action until the counterclaim has been served on any appropriate party, including the Attorney General or the Corporation.

"(8) AWARD OF COSTS AND ATTORNEY FEES TO PREVAILING PLAINTIFF.—In addition to any amount received under paragraph (2) by any person who brings an action on behalf of the Corporation under paragraph (1) and prevails, the court, in the court's discretion, may allow the person reasonable attorneys' fees and other costs of such person in connection with such action.

"(9) INELIGIBILITY OF CERTAIN PERSONS FOR SHARE OF ASSETS.—Paragraph (2) shall not apply with respect to the following persons in the case of any action brought by any such person under paragraph (1) in connection with a restitution order referred to in such paragraph:

"(A) Any current or former officer or employee of the United States or any State who directly or indirectly obtained, in whole or in part, any information with respect to any asset which is the subject of the action while acting within the course of such officer's or employee's government employment.

"(B) Any person who participated in any banking law violation which resulted in the issuance of the restitution order.

"(C) Any institution-affiliated party who withheld any information which such person had a fiduciary duty to disclose relating to any banking law violation that resulted in the issuance of the restitution order.

"(D) Any member of the immediate family of a defendant who is subject to the restitution order.

"(10) EXCEPTION FOR CERTAIN ASSETS.—This subsection shall not apply with respect to any asset referred to in paragraph (1) in which the Corporation has—

"(A) perfected a security interest before the date an action is filed under paragraph (1); or

"(B) otherwise asserted a legal interest as a matter of public record before such date.

"(11) AVOIDABLE TRANSFERS.—Any person who brings an action under paragraph (1) with respect to any asset may exercise any authority of the Corporation under section 11(d)(17) to avoid a transfer and recover the value of the asset, subject to the provisions of such section.

"(12) APPLICABILITY TO RTC AND NCUA.—If any portion of the amount of any restitution ordered under section 3663 of title 18, United States Code, accrues to the benefit of the Resolution Trust Corporation or the National Credit Union Administration, this subsection shall be applied by substituting 'Resolution Trust Corporation' or 'National Credit Union Administration', as the case may be, for 'Corporation' each place such term appears, except that section 207(b)(16) of the Federal Credit Union Act shall apply with respect to the authority of any person under paragraph (11) to avoid a transfer of an asset and recover the value of the asset on behalf of the National Credit Union Administration.".

(b) SCOPE OF APPLICATION.—The amendment made by subsection (a) shall apply to any restitution order issued under section 3663 of title 18, United States Code, in connection with a banking law violation which is in effect, or becomes effective, on or after the date of the enactment of this Act.

TITLE VI—REPORTS

SEC. 601. STUDY OF PRIVATE SECTOR CONTRACTORS.

Section 21A(p) of the Federal Home Loan Bank Act (12 U.S.C. 1441a(p)) is amended by adding at the end the following new paragraph:

"(3) STUDY OF PRIVATE SECTOR CONTRACTORS.—The Corporation shall conduct a detailed review of contractor performance of its major activities, such as asset valuation, cost test calculation, property management, etc., for the purpose of preparing a report to the Senate Banking, Housing, and Urban Affairs Committee and the House Banking, Finance and Urban Affairs Committee on the benefits and burdens of contracting out tasks to private sector firms as compared to the benefits and burdens of performing the work with its employees.".

SEC. 602. ADDITIONAL REPORTS.

Section 21A(k)(7) of the Federal Home Loan Bank Act (12 U.S.C. 1441a(k)(7)) is amended to read as follows:

"(7) QUARTERLY REPORTS.—

"(A) REPORTS REQUIRED.—Not later than May 31, August 31, November 30, and the last day of February of each year, the Corporation shall submit reports to the Committee on Banking, Finance and Urban Affairs of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate.

"(B) ASSETS ON HAND.—Each report under this paragraph shall include a report on the assets on hand at the beginning and end of the reporting quarter in receiverships or conservatorships or in institutions under supervisory control of the Director of the Office of Thrift Supervision. For each asset the following information shall be reported: (i) category of asset; (ii) location; (iii) book value; (iv) fair market value as identified either for purposes of borrowing from the Federal Financing Bank or for purposes of calculating the least-cost resolution method; (v) whether data is estimated or confirmed from books and records or other reliable sources; and (vi) ancillary matters that affect or may affect the sale of the asset, such as hazardous waste, environmental or historic significance, incomplete records, title problems, tax or materialmens' liens, or adverse economic conditions existing in the local area.

"(C) ASSET SALES.—Each report under this paragraph shall include a report on asset sales during the reporting quarter, including the information enumerated in subparagraph (A) and the following additional information: (i) sales price; (ii) terms of financing; (iii) any sale terms which obligate the Corporation or the Director to future liability with regard to the asset (including such matters as 'puts', seller financing, guaranteed yields, etc.); (iv) period of time that the asset was held under the control of the Corporation or the Director; (v) expenditures made in connection with (I) the preservation of the asset or (II) sale of the asset (including fees paid to interim servicers, SAMDA contractors, real estate brokers, securities brokers or underwriters, auctioneers, and insurance and professional fees); (vi) calculation of net proceeds to the Corporation, the Director, or the institution, and the net proceeds as adjusted for contingencies and allowances; (vii) calculation of the net loss (or gain) on each asset, using the value of the asset on the books of a financial institution as of the date of the declaration of conservatorship, receivership, or imposition of regulatory supervision as the basis; and (viii) whether the sale was made in an auction, in a bulk sale, under the affordable housing program, or through a securitization process.

"(D) FORMATS FOR SUBPARAGRAPHS (B) AND (C).—The information specified in subparagraphs (B) and (C) shall be reported in the following formats (and any other that the Corporation, in the Corporation's discretion, deems useful): (i) by categories of asset and location; (ii) by categories of asset, location, type of sale, and continuing or contingent liabilities of the Corporation or the Director; (iii) by categories of asset, location, and type of financing; (iv) by categories of asset, holding period, and location; and (v) by categories of asset, location, and value of other assets of a similar type in the local market still held or under the control of the Corporation or the Director. The reports shall contain summary tables, subtotals, and such descriptive information as may be needed to assure the presentation of complete and accurate data.

"(E) DEFINITIONS.—For purposes of this clause—

"(i) CATEGORY OF ASSETS.—The term 'category of assets' means (I) cash, (II) securities, (III) loans, (IV) real estate, and (V) other.

"(ii) DIRECTOR.—The term 'Director' means the Director of the Office of Thrift Supervision.

"(iii) LOAN.—The term 'loan' means (I) residential mortgages secured by 1- to 4-family dwellings, (II) construction loans, (III) land loans, (IV) land development loans, (V) other mortgage loans, (VI) consumer loans, and (VII) commercial loans.

"(iv) REAL ESTATE.—The term 'real estate' means (I) commercial, (II) residential, (III) residential single family, (IV) residential multifamily, and (V) undeveloped or raw land.

"(v) COMMERCIAL REAL ESTATE.—The term 'commercial real estate' means (I) office buildings, subdivided into categories by net rentable/saleable square feet; (II) shopping centers, subdivided by size; (III) golf courses, race tracks, sports complexes and stadiums, and other types of recreational facilities; and (IV) hotels and motels subdivided by size.

"(vi) LOCATION.—The term 'location' means (I) street address, lot and block, or other designation sufficient to precisely locate the asset; (II) city and State; (III) Standard Metropolitan Statistical Area, or if the asset is not located within such an area, then the county; and (IV) jurisdiction of regional, consolidated, and field office of the Corporation.

"(vii) TYPE OF SALE.—The term 'type of sale' means (I) bulk sales; (II) securitization; (III) auction sales; (IV) affordable housing sales; and (V) seller financing sales.

"(F) DATA ON PRIVATE SECTOR CONTRACTORS.—For each contract outstanding at the end of the reporting quarter, the RTC shall report the type of contract; the name and principal address of the contractor; the total dollar value of the contract; the amount of fees or consideration paid to the contractor during the quarter and since the inception of the contract; whether a waiver of the conflict of interest rules were granted in connection with the award of the contract and the names and addresses of persons granted any waivers; a brief description of any ongoing problems with the contract or with the assets or services that are the subject of the contract; and total value of assets delivered to the contractor, sold by the contractor pursuant to the contract, the total receipts received from the contractor, total fees and charges paid to the contractor, the terms of any asset sales, and the value and location of any assets returned to the Corporation pursuant to an asset sale, if applicable. The same information shall be reported for each subcontractor of a contractor who performs a substantial part of the value of the contractor's agreement with the Corporation. For purposes of this subparagraph, the type

of contract shall include: (i) SAMDA contracts; (ii) interim servicing agreements; (iii) collection agreements; (iv) brokerage or underwriting contracts; (v) property management contracts; (vi) professional services contracts and (vii) financial services contracts.

"(G) STATUS OF CLAIMS AND SUITS.—For each claim pending at the end of the quarter against any failed depository institution, the Corporation, a managing agent of the Corporation, any entity which has contracted to provide services to the Corporation or the Federal Deposit Insurance Corporation on account of a failed depository institution, or on behalf of the insured depository institution, the Corporation shall provide the following information, together with any additional information which may be necessary in the discretion of the Corporation to provide a true and accurate evaluation of the claim: the name of the claimant; the amount of any monetary claim and a description of other relief requested; the court or tribunal in which the claim is pending, if any; the law firm retained by the Corporation, the firm's assessment of the validity of the claim, the number of other claims or suits being handled by the firm on behalf of the Corporation or any failed depository institution, whether a waiver of the conflict of interest rules has been made in connection with the provision of services by the firm; the aggregate of fees paid to the firm or firms during the quarter on account of the claim; the expected date of resolution of the claim; the condition of any collateral implicated by the claim; the nature of any counterclaims or defenses; and the attorney or supervisor responsible for monitoring the claims process on behalf of the Corporation.

"(H) CURRENCY AND ANALYSIS OF INFORMATION.—The Corporation shall, within 6 months of the date of the enactment of the Resolution Trust Corporation Revitalization Act of 1992, provide the information required in reports under this paragraph, on a real time basis with the capability of sorting, comparing, and summarizing across categories, locations, relationships and association, and status, so that the progress of the resolution effort can be meaningfully judged. The President of the Corporation shall certify each printed report as being true and accurate to the best ability of the Corporation, and all estimates or questionable data shall be prominently marked.

"(I) FEDERAL FINANCING BANK LOAN STATUS.—The report shall contain the following information with respect to loans from the Federal Financing Bank to the Corporation:

"(i) The total amount of loans outstanding at the beginning of the quarter.

"(ii) The total amount of loans originated during the quarter.

"(iii) The total amount of loans repaid during the quarter.

"(iv) The total amount of loans outstanding at the end of the quarter.

"(J) SELLER FINANCING.—The report shall contain information regarding the Corporation's use of seller financing to encourage the sales of assets during the quarter, including the following:

"(i) A total of the amount of funds used for seller financing purposes during the quarter.

"(ii) The number of applications received by the Corporation which requested seller financing.

"(iii) A breakdown of the type of assets sold, according to the categories listed in subclauses (I) through (VIII) of subparagraph (B)(vii).

"(iv) Projections of the total amount of seller financing which will be needed during the succeeding 2 quarters.".

SEC. 603. STUDY OF STANDARDIZED RECORDS.

On or before June 1, 1993, the Office of Thrift Supervision shall report to the Senate Committee on Banking, Housing, and Urban Affairs and the House Committee on Banking, Finance and Urban Affairs, on the feasibility of requiring a nationwide uniform automated recordkeeping system for insured depository institutions that would assure the creation, maintenance and accuracy of the books and records of savings and loan institutions in a manner sufficient to assure that if regulatory action must be initiated against such an insured depository institution, the conservator or receiver shall receive complete and substantially accurate information about the assets and liabilities of the institution.

PREVENTIVE CARE INITIATIVE AT THE MEDICAL CENTER OF CENTRAL MASSACHUSETTS

HON. JOSEPH D. EARLY

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 12, 1992

Mr. EARLY. Mr. Speaker, one of the most prominent issues on the minds of the American public during this election year is reform of our Nation's health care system.

However, during this debate, I think we have lost sight of a fundamental component of our health care system: preventive care. While the United States is an economic and military superpower, we are not even in the top 20 among industrialized nations in terms of infant mortality. Almost 20 percent of the Nation's children do not receive adequate preventive health care.

In my district, the city of Worcester faces growing at-risk populations which typically do not receive sufficient prenatal care and where the teen birth rate is 40 percent higher than the national average. Moreover, 10 percent of the area's births are to women with a chemical addiction.

Today, I would like to commend the Medical Center of Central Massachusetts for its innovative and timely efforts to combat these problems. The hospital operates the only level 3 neonatal intensive care unit in central Massachusetts and is the regional perinatal center. The Med Center seeks to build upon this expertise with the establishment of the community health care center as a regional model to focus upon delivering preventive health care to the citizens of central Massachusetts. This center will also institute a comprehensive outreach program aimed at providing preventive health care to women, children, and families. The center's programs will serve to decrease long-term health care costs through expanding education and patient care.

I hope the Med Center's example will encourage other health care providers nationwide to develop preventive medicine programs that decrease the incidence of serious illnesses while also containing medical costs.

RURAL HEALTH CARE ACCESS IMPROVEMENT ACT OF 1992

HON. LARRY A. LaROCCO

OF IDAHO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 12, 1992

Mr. LaROCCO. Mr. Speaker, today I am introducing the Rural Health Care Access Improvement Act of 1992. It is the product of many concerns expressed by the people in Idaho's First Congressional District at hearings, town meetings, and exchanges during the last year and a half. It is intended as a starting point, a place from which we can continue building, so that the concerns of rural areas are not ignored in the broader quest for health care reform in America.

Idaho is the most under-doctored State in the Nation. This fact alone would be cause for concern, but the provider shortage in Idaho includes all health care professions. Idaho hospitals have struggled with reclassification and payment issues, only to have their progress wiped out by a wave of changing regulations from the Health Care Financing Administration [HCFA]. And for many of Idaho's rural communities, public health clinics are the only viable option to serve the need for access to health care.

This legislation is designed to improve access to health care services for rural areas. To that end, it provides a combination of incentives and program modifications.

Doctors will be encouraged to consider practicing in rural communities through a combination of financial incentives and administrative simplifications.

Hospital facilities will be protected from further reductions in Medicare payments for capital related expenditures, and antitrust statutes will be relaxed to encourage cooperative sharing arrangements and to maximize the use of medical facilities.

To promote information sharing and efficiency, the bill includes a rural telecommunications demonstration program to link medical facilities in rural areas.

Grants are provided to establish primary care clinics in medically underserved areas. In addition, the bill reformulates the system for determining placement priorities within the National Health Service Corps, so that rural States with severe provider shortages will receive a larger share of professionals available for placement assignments.

And finally, the Secretary of Health and Human Services is directed to identify federally imposed paperwork burdens associated with the delivery of health services, and develop a reduction plan to reduce this burden by 5-percent-per-year for each of the next 5 years.

Mr. Speaker, this bill raises areas of discussion within the ongoing health care reform debate. But it is by no means a final product, and I welcome continued input from all Idahoans in further shaping this legislation, and making it the focal point of efforts to deliver rural care reform.

THE DOWNEY-MILLER-WILLIAMS EMERGENCY JOBLESS BENEFITS AND EMPLOYMENT TRANSITION ACT OF 1992

HON. GEORGE MILLER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 12, 1992

Mr. MILLER of California. Mr. Speaker, together with Congressmen TOM DOWNEY and PAT WILLIAMS, I am today introducing the Emergency Jobless Benefits and Employment Transition Act of 1992. This important legislation that not only extends emergency unemployment compensation benefits for an additional 13 weeks for individuals who received emergency unemployment benefits before July 5, 1992, but also creates a transitional employment program for unemployed individuals to repair and renovate the deteriorating and dangerous conditions in our Nation's public elementary and secondary schools.

Every day, hundreds of thousands of children attend schools that are structurally unsafe and pose serious health and safety hazards to them.

Teachers cannot teach and children cannot learn in buildings that are falling down around them. Too many of our schools lack sufficient space, suitability, safety and maintenance for the students and teachers in them.

In 1991, the American Association of School Administrators conducted the first nationwide survey of school facilities in 30 years. The survey concluded that 74 percent of our public school buildings need to be replaced. Almost one-third of these buildings were built prior to World War II.

In its 1989 report, "Wolves At The School-House Door," the Education Writers Association concluded that one of every four school buildings is in inadequate condition. Of those schools, 61 percent need maintenance or major repairs, 43 percent are obsolete, 42 percent have environmental hazards, 25 percent are overcrowded, and 13 percent are structurally unsound. Many schools have multiple problems.

This legislation establishes part-time and full-time transitional employment opportunities for claimants and exhaustees of the Emergency Unemployment Compensation Program. Eligible workers could work full time for up to 6 months, or, if they so chose, work part time and receive emergency unemployment benefits if they participate in a job search assistance program provided by the Employment Service or Job Training Partnership Act [JTPA]. Native Americans are also eligible to participate in this program.

The need for this legislation is clear. The economic recovery promised by this administration has not occurred. Instead, our food stamp rolls are swelling daily, and too many Americans are either losing their jobs or cannot find work. Extending emergency unemployment compensation benefits, as this bill does, is the act of a compassionate and humane government. At the same time, society will receive real benefits from the school rehabilitation portions of this bill.

Our State and local governments are all in states of fiscal crises. Education budgets throughout the country are taking enormous cuts. There is simply no money at the State and local levels sufficient to repair and rebuild public schools.

It is time that the Congress showed leadership and addressed this serious problem. This legislation is needed not only to repair our crumbling infrastructure, but also to help jump start our sagging economy. By creating these jobs, we will not only be providing people with the economic means to support themselves and their families. We also will be providing our Nation with the greatly needed economic resources to protect the health and safety of our school children.

DEFENSE NUCLEAR WORKERS' HEALTH INSURANCE ACT OF 1992

HON. DAVID E. SKAGGS

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 12, 1992

Mr. SKAGGS. Mr. Speaker, today I am introducing legislation to provide continuing health insurance for Department of Energy (DOE) nuclear weapons plant workers losing their jobs as a result of the downsizing of the nuclear weapons complex. The Defense Nuclear Workers' Health Insurance Act of 1992 will meet the unique and compelling health insurance needs of defense nuclear workers.

This legislation is virtually identical to a major element of H.R. 3908, the Defense Nuclear Workers' Bill of Rights Act, which I introduced this past November. I am pleased that other portions of that bill were adopted by the House as part of the fiscal year 1993 Defense authorization bill. However, the House-passed provisions don't address one of the fundamental concerns of the defense nuclear worker—the need for adequate health insurance coverage when he or she leaves the nuclear weapons complex.

For more than 40 years, workers at the Nation's nuclear weapons plants have been among America's frontline soldiers in the cold war. In carrying out their national security mission, many have worked with uranium, plutonium and other radioactive materials under conditions we would consider appalling by today's standards. With the coming consolidation and likely downsizing of the weapons complex, some of these workers face serious health, insurance, and future employment difficulties that are unique to their industry.

These workers have dedicated their careers to this difficult and sometimes dangerous national defense mission. We should treat them now with a decent sense of national responsibility. They did their part; we should keep faith with them. Congress has already recognized America's special obligations to veterans, of course, and to those who were innocently exposed to dangerous levels of radiation during the cold war—uranium miners, people living downwind of nuclear tests, and the atomic veterans. I strongly believe that nuclear weapons workers deserve similar consideration.

Please let me take a minute to describe more fully what the bill does.

With the cold war over, several nuclear weapons plants have reduced or suspended operations, and further contraction and consolidation of the nuclear weapons complex will occur over the next decade. Some workers at these facilities have already been laid off, and more will be. Unfortunately, when they seek new jobs, they may face resistance because employers fear that the workers' prior exposure to radiation could increase company health care or health insurance costs.

My bill would establish a DOE-funded health insurance program for former weapons plant workers who were exposed to levels of radiation that carry substantial health risks. Because DOE's worker-exposure records are often inaccurate or non-existent, the program would also cover those who worked for 5 or more years in "hot" facilities, a period of time in which unhealthy levels of radiation exposure might reasonably be presumed.

This provision would eliminate a significant reemployment hurdle, and make it easier for these former defense nuclear workers to obtain new civilian jobs. It would provide former defense nuclear workers with Federal health insurance for any costs exceeding $25,000 for illness or injury caused by on-the-job exposure to ionizing radiation. The initial expenditure of $25,000 would be the responsibility of the worker or his or her insurer. By covering the most expensive cases, this Federal insurance will remove the fear of potential new employers that their insurance costs will increase if they hire former weapons plant workers. It shows that the Nation isn't going to abandon people who have devoted their working lives to protecting their country.

I urge my colleagues to support this legislation, and so to treat these defense workers in a fair and responsible manner.

NATIONAL WOMEN AND GIRLS IN SPORTS DAY

HON. SUSAN MOLINARI

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 12, 1992

Ms. MOLINARI. Mr. Speaker, I am honored to be introducing, along with a number of my distinguished colleagues, legislation to designate February 4, 1993, and February 3, 1994, the "National Women and Girls in Sports Day."

Ours is a culture rich in sports tradition and heritage. And this year, as female athletes soar to new heights, it is easy to forget the time when women did not participate in the Olympics—or even high school athletics. For years, the lessons learned and experiences gained from participating in sports were denied to half of our citizens. Not until 1972, with the passage of title IX of the Education Amendments Act, were women assured equal opportunities to participate in high school and college athletics. Title IX forever changed the course of women's participation in athletics. It is important to recognize how far women have come in their athletic achievements, while not forgetting that inequities still exist.

With the passing of the Summer Olympics in Barcelona, we quickly recall Heptathlete Jackie Joyner-Kersee, Janet Evans, the United States Women's Basketball Team, and Gail

Devers remarkable comeback from Graves' disease to win the women's 100-meters. We watched as newcomers Summer Sanders and Shannon Miller become prominent figures in international competition with their splendid achievements. They and many others in Barcelona are a source of inspiration and pride to Americans.

That is why for the past 6 years Congress has designated a "National Women and Girls in Sports Day," to encourage women and girls to participate in sports, to continue to work for equal opportunities, and to celebrate the great progress made by women in sports.

Again this year a woman athlete will be presented with the Flo Hyman Memorial Award, in honor of the Olympic volleyball star who died suddenly in 1986. It is my hope that this annual celebration will inspire future generations of women athletes to strive for the excellence exemplified by Flo Hyman and other female athletes.

Mr. Speaker, I hope all my colleagues will lend their support for this legislation.

TRIBUTE TO LEE/ROWAN ON LABOR DAY 1992

HON. BILL EMERSON

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 12, 1992

Mr. EMERSON. Mr. Speaker, I rise today to pay tribute to a Federal holiday we soon will be celebrating; Labor Day 1992 will be recognized on September 7th. On that day, we pause to remember all the accomplishments American workers have contributed to this great Nation and thank them for their steadfast toils in the past and into the future. There is no question that the working people of the United States help to make this country the global leader that it is today.

I'd like to take this time to share a manufacturing success story with my colleagues in Congress. It is a success story that takes place in my home State of Missouri, and one that I am very proud of. Back in 1939, Edgar D. Lee and John V. Rowan founded Lee/Rowan, which at that time only produced metal trouser creasers. They sold these creasers to Sears Roebuck & Co. and JCPenney, who over the last 50 years have continued to be major Lee/Rowan customers.

The firm based in St. Louis steadily grew by adding manufacturing space, employees, and new product lines. Today, odds are that if you look in your bedroom or bathroom closet, there is probably at least one piece—if not a majority—of Lee/Rowan's wares inside. The company's retail products now include wood, metal, and plastic hangers; door/wall shoe racks and accessories; bath furniture and organizers; bulk shelving; and a number of storage systems, including a complete line of ventilated wire storage systems and shelving introduced in 1985. Basically, if you have something to hang or to store, the hard-working folks at Lee/Rowan have probably had some hand in putting together the product you use.

I am especially proud of the Lee/Rowan success story because a major part of it has been played out in Jackson, Missouri, which is in my Congressional District in the southern part of the State. What started out as an original facility with 49,000 square feet and 25 workers in 1964 has witnessed 9 plant expansions and now has ballooned to a production center of 556,934 square feet and more than 700 employees. The folks at the Jackson plant, combined with the 400 people in their St. Louis facility, have helped to make Lee/Rowan a heralded leader in the storage and organization products industry. In fact, E. Desmond Lee, Lee/Rowan chairman, was inducted into the Entrepreneurial Hall of Fame in December 1991, and the Lee/Rowan firm was recognized as Vendor of the Year by Wal-Mart Stores, Inc., for its performance as a supplier. The latter citation is reserved for firms that provide consumers with products and packaging that are safe for the environment and help create American jobs through a Buy American program.

A scholar once wrote, "By the work, one knows the workman." In Lee/Rowan's case, we know that these folks are fine, dedicated, hard-working people concerned about their communities and intent on producing the finest wares possible. It shows in the quality craftsmanship of their products; and moreover, the success they have brought to their company over the years. In honor of Labor Day 1992, I'd like to say congratulations to everyone who's played a part in Lee/Rowan's successful past and those who will contribute to Lee/Rowan's optimistic future.

THE CONSUMER HOSPITAL PRICE AWARENESS ACT

HON. JIM MOODY

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 12, 1992

Mr. MOODY. Mr. Speaker, today I am introducing the Consumer Hospital Price Awareness Act, a bill that expands upon legislation I introduced last month, H.R. 5707, the Hospital Cost Disclosure Act of 1992. H.R. 5707 would require hospitals to provide patients with an itemized bill listing hospital charges to the patient per service versus the actual cost to the hospital of providing the service. This public disclosure has the ability—as we saw with the Humana chain in Kentucky—of making hospitals lower their prices.

The bill I am introducing today would also require hospitals to give prospective patients a list of prices along with the costs to the hospital of providing those services. This will enable consumers to compare the prices and profit margins of hospitals in their area before choosing a hospital.

Evidence seems to indicate that there is neither rhyme nor reason to the profit margins of hospitals. The charges for similar items in different hospitals vary dramatically. It's a profit issue through and through.

Here are a few examples of markups that I have seen reported: a charge of $76.44 for two tubes of Neosporin ointment that cost $5 each at a drugstore; $15 for one ounce of petroleum jelly, $6.71 for a thiamine pill that costs $0.04, a bag of ice that costs $0.99 at 7–11 costs the sick $32 at one particular hospital. These are only a small sampling of the examples that exist.

My new bill, the Consumer Hospital Price Awareness Act, would expose these hospital markups to American consumer and thereby allow consumer to decide for themselves whether they are willing to pay such outrageous prices. If not, they can compare the prices of various hospitals and choose the one whose prices, and profits are the most reasonable. Such exposure and comparisons may encourage hospitals to lower their sometimes outrageous—and often unjustifiable—markups in this currently hidden profit-making scheme.

SENATE CONCURRENT RESOLUTION 132

HON. J. DENNIS HASTERT

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 12, 1992

Mr. HASTERT. Mr. Speaker, on August 10, the House passed Senate Concurrent Resolution 132, the same language as House Concurrent Resolution 352, of which I am an original cosponsor. I am pleased to support this legislation as it is the culmination of many months of attempts by the House Select Committee on Hunger, on which I am privileged to serve, and by other committees of Congress to aid humanitarian efforts in the war-torn country of Somalia.

I would like to briefly recount the history of this situation. In 1988 a bloody civil war began, resulting in the ouster of President Mohammed Siad Barre in January 1991. No functioning government, nor legitimate claim to power, has been made since that time. The United Nations [U.N.] removed all personnel at that time as well.

I went to Somalia last summer on a trip to the Horn of Africa with the chairman of the Select Committee on Hunger, TONY HALL, and Hunger Committee colleague, ALAN WHEAT. While we never entered the capital city of Mogadishu, the level of starvation in the north was devastating.

The situation has only become more severe since that trip. In November 1991, intense fighting again broke out in the capital city causing complete destruction of the infrastructure, any semblance of agricultural practices, and creating severe barriers to the distribution of food and medicine. Without legitimate rule, there have been flagrant human rights abuses and these violations continue unchecked.

In December 1991, I joined other members of the Select Committee on Hunger in writing to Secretary Baker asking the United States to again push for negotiations among warring parties and the establishment of a cease-fire agreement. Then, in January, U.N. Secretary-General Boutros Boutros Ghali supported a U.N. resolution that called for a cease-fire, an increase in humanitarian aid, an international arms embargo, and the deployment of a coordinator for U.N. humanitarian assistance.

Also in January, the Select Committee on Hunger held a hearing receiving testimony of several private, voluntary organizations involved in the distribution of food and medicine. Because some humanitarian workers had

been killed and ships waiting to deliver food aid were repeatedly fired upon, the humanitarian movements were frustrated and seeking political support. There was no United Nation presence at the time, although special envoy, Under Secretary General James Jonah, had recently visited Somalia in an attempt to establish preliminary negotiations for a cease-fire.

The Select Committee on Hunger responded with letters to leaders of the warring factions directly asking for cooperation and a cease-fire. While leaders of all factions were not known, an appeal was made to the two major leaders responsible for fighting in Mogadishu, General Aideed and Mr. Ali Mahdi.

Finally, a tentative cease-fire was reached in March. This cease-fire has been repeatedly violated and has included the shelling of ships seeking to unload food aid. Later in March, the United Nations issued another resolution. This resolution expressed regret that the cease-fire had not been kept, called on all factions to abide by the cease-fire, ordered the dispatch of a technical team to work with the coordinator of humanitarian assistance, and calling for the establishment of a mechanism for safely distributing humanitarian assistance.

In April, yet another U.N. resolution was issued in the wake of the Secretary-General's report to the Security Council. This resolution notes a plan for food distribution had been proposed for Mogadishu, Hargeisa, and Kismayo, calls for a U.N. operation of 50 observers to monitor the cease-fire, agrees in principle to establish a U.N. security force to assist in securing safe distribution for humanitarian aid after consultation with warring factions, approves appointment by the Secretary-General of a Special Representative for Somalia to provide overall direction of U.N. activities, and asks for a conference on national reconciliation and unity in Somalia in close cooperation with the League of Arab States, the organization of African Unity and the Organization of the Islamic Conference.

At this time, members of the Select Committee on Hunger and members of the Foreign Affairs committee worked together to draft a resolution to be introduced to Congress.

As the Hunger Committee prepared to hear testimony July 22 from Senator NANCY KASSEBAUM, who had recently returned from a trip to Somalia, 4 of the 50 U.N. observers were preparing to enter the country. This past weekend, the additional 46 observers called for by the U.N. resolution entered Somalia as well.

Yet another U.N. resolution further set the stage for the passage of our resolution in Congress. This resolution, on July 27, 1992, called for airlift operations and sanctioned the deployment of U.N. security forces. The resolution discussed on August 10 in Congress heartily supports this call for action.

According to the International Committee of the Red Cross [ICRC], the overall malnutrition rate in Somalia is 95 percent. This becomes 99 percent in some areas of the country experiencing the most severe conflict. One and a half million people, or nearly a third of the Somalian population, is considered to be at severe risk of starvation. At least 30,000 have perished thus far.

While the tragedy of war and drought has plagued many African countries in the past, and indeed Somalia has been in crisis for nearly 2 years since the ouster of President Siad Barre, this tragedy is far more severe and can not be ignored. Actions can be taken now to aid 1.5 million people in immediate danger of death.

Corridors of tranquility, which are areas where the safety of humanitarian workers and those seeking aid is ensured, can and must be established. Humanitarian aid must be allowed to safely and efficiently pass to those suffering. A cease-fire must be observed long enough to aid millions of starving people. However, even if a cease-fire can not be unequivocally maintained, efforts must continue to aid the Somalians.

I commend U.N. Secretary-General Boutros Boutros Ghali for his statements calling attention to the relative lack of attention given to Somalia compared with the former nation of Yugoslavia. I look forward to the action by the 50 U.N. observers who recently arrived in Somalia and the work of the United Nation's special representative for Somalia, Mohamed Sahnoun.

With the vast number of lives at stake, we can not ignore the Somalian crisis. Therefore, I fully support the call to action Senate Concurrent Resolution 132 outlines.

THE NATIONAL ENVIRONMENTAL BUSINESS FOUNDATION

HON. GERRY E. STUDDS

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 12, 1992

Mr. STUDDS. Mr. Speaker, I am today introducing legislation to establish a National Environmental Business Foundation. The purpose of the bill is twofold: jobs at home and a cleaner, healthier environment abroad.

Mr. Speaker, the environmental technology area is one of enormous opportunity for American business and American know-how. The enviro-tech industry in the United States grew in response to the environmental laws and regulations that we passed in this body. According to EPA Administrator William Reilly, the domestic environmental business sector generates sales of more than $100 billion annually. The international market for environmental goods and services is enormous, already more than $200 billion per year, and it is expected to grow rapidly through the end of the century.

Here at home we've got national programs to protect our own environment that are second to none worldwide, George Bush and Dan Quayle notwithstanding. We've got 20 years of experience in solving the environmental problems that Eastern Europe, Asia and Central and South America are now wrestling with. We've got a university system for education and training, and a fully developed research and development sector that keeps us at the cutting edge of quickly evolving technologies.

My own State of Massachusetts is a perfect example. We have world class academic and research institutions like Woods Hole Oceanographic Institution and the Massachusetts Institute of Technology—to name a few. We have literally hundreds of firms producing remarkable technologies that are as we speak being marketed globally. We've got the work force, the capabilities and the willingness to compete that is unequaled.

In fact, Massachusetts has already taken the first steps in realizing these opportunities by forming the Environmental Business Council, an organization of businesses and universities in New England and beyond that is successfully negotiating trade and training agreements with Mexican businesses and the governments of Eastern Europe.

While groups like the Environmental Business Council are out of the blocks and running, the Bush administration remains tone deaf to the issue. The public fiasco of the President in Rio earlier this spring masked an equally important behind-the-scenes story of missed opportunities for American enviro-tech. While the Germans and the Japanese mounted major promotion campaigns, the Americans dawdled. It's just not good enough.

The legislation that I am introducing today will establish a national foundation to aggressively promote enviro-tech business and training opportunities. Established by the Administrator of the Agency for International Development and guided by a Board of Governors, it will identify the regional centers of excellence in the enviro-tech field around the United States and marry those capabilities with market opportunities abroad. Working with the Commerce Department, the Environmental Protection Agency and the Trade Representative, it will also identify existing impediments to accessing those markets and ways to eliminate those impediments.

Mr. Speaker, this is a complicated subject and an enormous challenge that we face in the coming months and years. I firmly believe that we must transform government into a positive agent for change in this field so that, spearheaded with the work of the Foundation, we make the most of opportunities that now exist. Both the world and our economy will be better and healthier for it.

INTRODUCTION OF ANTI-STALKING LEGISLATION

HON. NANCY PELOSI

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 12, 1992

Ms. PELOSI. Mr. Speaker, today I am introducing legislation to address the tragic problem of stalking. Victims of stalking are harassed and often killed by their perpetrators and there are few legal steps they can take to protect themselves. My bill, which is a companion to S. 2922, introduced by Senator COHEN, would direct the National Institutes of Justice (NIJ) to create a constitutional and enforceable model antistalking law for adoption by States. It would also require the Attorney General to report to Congress on the need for further action within 1 year.

There are currently twenty-one States which have adopted antistalking laws. However, many of these laws have been found to be too broad and deemed unconstitutional or too narrow and are found to be ineffective. If these laws are challenged, previously convicted

stalkers may be allowed back on the street. Statutes that are too broad may preclude legal activities, such as a reporter investigating a pubic official for a story.

A recent case in Brookline, Massachusetts, highlights the problem of stalking and the inadequate legal protection for victims. Kristin Lardner, a 21-year-old art student, was stalked by an ex-boyfriend who after a few weeks shot her to death. Kristin had gone to the police and was granted a 1-year judicial restraining order against him but it was not enough to protect her. Many victims seek legal protection but are frequently told that nothing can be done until they are physically harmed. Other victims who are harassed by a former intimate often have their cases dismissed as a domestic dispute.

I invite you to join me in cosponsoring this important legislation to help provide adequate legal protection for the people who are terrorized by stalking.

INTRODUCTION OF THE EMERGENCY JOBLESS BENEFITS AND EMPLOYMENT TRANSITION ACT OF 1992

INTRODUCTION OF THE EMERGENCY JOBLESS BENEFITS AND EMPLOYMENT TRANSITION ACT OF 1992

THOMAS J. DOWNEY
OF NEW YORK
IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 12, 1992

Mr. DOWNEY. Mr. Speaker, today I am introducing legislation, along with my colleagues GEORGE MILLER and PAT WILLIAMS, that will address the most pressing need facing our Nation today. Despite the wishful thinking of the Bush administration, the economy remains stagnant and the recession continues. The human cost of the longest recession since the Great Depression has been too high and tragic. Jobless Americans have paid a heavy price as they coped with the emotional and financial strain of unemployment.

I believe that this Congress should be proud of the fact that we led the fight to extend emergency unemployment benefits against Presidential threats and vetoes. And in the end, we prevailed and offer the unemployed a temporary lifeline in the hope that the economy would improve.

But we cannot turn our back on jobless Americans now. Although we extended the Emergency Benefits Program through the end of March, we did not provide additional weeks of benefits for those who have exhausted basic and extended benefits. Why? Because the President's advisers and other economists assured us that the economy was improving. But it is not improving, and I now believe we need to provide additional weeks of emergency benefits until the jobless situation improves.

Most important, we need to provide jobless Americans with the one thing that want more than anything else—a job. This legislation will provide transitional opportunities for those who exhaust all their unemployment insurance benefits, it will expand the JOBS Program, it will provide incentives for the creation of reemployment assistance programs and it will provide protection to American workers who have lost their jobs because of the relocation of their company to a foreign country.

Mr. Speaker, we need to get America working again and we need to help jobless Americans stay afloat during these difficult times. I believe that this legislation will help us accomplish both of these goals. With your permission, I would like to include the text of the legislation in my remarks.

TRIBUTE TO HON. ED ROYBAL

HON. HOWARD L. BERMAN
OF CALIFORNIA
HON. HENRY A. WAXMAN
OF CALIFORNIA
IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 12, 1992

Mr. BERMAN. Mr. Speaker, It is a special privilege for us to salute a dear friend and valued colleague—Congressman ED ROYBAL. ED is being honored for his lifetime achievements on behalf of Chicanos for Creative Medicine of East Los Angeles College during his 30 years of distinguished service in Congress.

Over the 25 years that we have known ED, he has worked tirelessly on behalf of the poor, elderly, and the Latino community. There was nothing fashionable or politically expedient about ED's commitment to these disparate groups. Indeed, he took a risk. When ED came to Congress in January 1963, there was no congressional Hispanic caucus, no Chicano movement. ED was one of the few people in Washington during that early period who paid much attention to the needs of Latinos. Along with Ceasar Chavez, he provided leadership to a community that was just beginning to assert itself.

In the 1990's it is clear what ED meant to the advancement of Latino political power in southern California. An entire slate of Latino elected officials has followed in his path. By his courage and determination to open the doors to minorities, Latinos have become much more active in politics.

If ED had only opened the door for other Latinos to become involved in politics, it would have been enough. But during his distinguished career, he also became a leading advocate of affordable health care for the poor and senior citizens of America. Thanks to his sensitivity, foresight, and legislative activism, ED gave senior citizens the hope that Government would not ignore their long-term health care needs. He was there when others in Washington turned their backs on seniors, the disadvantaged, and the poor.

As chairman of both the Select Committee on Aging and the Subcommittee on Health and Long Term Care, ED assumed a major role in securing Federal funding for community health programs. He also worked on behalf of the elderly in other areas, including housing, human services, and Social Security.

ED's support and assistance for Chicanos for Creative Medicine of East Los Angeles College is typical of his humanitarianism. Founded in 1969, CCM has addressed the continuing shortage of health care professionals serving the Latino community, including establishing a scholarship fund to assist students pursuing medical degrees.

We have learned so much from ED during the time all of us spent together in Congress. ED showed us that politics, informed by a keen sense of justice and compassion, is the best politics. We are honored and privileged to salute Congressman ED ROYBAL for the leadership he has shown in the House of Representatives, his devotion to important causes, and above all, his friendship.

TIME FOR TOUGH TALK

HON. MEL LEVINE
OF CALIFORNIA
IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 12, 1992

Mr. LEVINE of California. Mr. Speaker, our Nation faces a critical juncture in its history. We must find a way to deal with a series of challenges—how to maintain our technological preeminence, how to provide our children with a world-class education, how to eliminate the growing divide between rich and poor in our society, and how to reduce our massive budget deficits which are sapping our ability to deal with these challenges.

Michael Crichton, one of our most thoughtful writers, dealt with many of these themes in his best selling novel, "Rising Sun."

Unfortunately, the press largely ignored this aspect of Mr. Crichton's book. Instead, reviews focused on issues of Japan bashing, racism, and trade protectionism, and ignored the real issues which Mr. Crichton raised so thoughtfully in his book.

Such an approach reflects an easy way to deal with a difficult subject. In doing so, Mr. Crichton's book was sensationalized and trivialized, the press was spared the chore of analyzing complex and difficult issues, and an important opportunity to stimulate a public debate on these issues was lost.

Earlier this week Mr. Crichton wrote an article for the New York Times in which he addressed this subject and the media's failure to come to grips with the real substance of his book. I commend it to my colleagues and ask that it be included in the CONGRESSIONAL RECORD.

I hope that as the campaign season progresses candidates for President, the House, and the Senate will be pressed to explain how they will deal with these important issues. It would be a tragedy if the campaign season were to focus on less important, more mundane subjects of much less significance to the future of our country.

[From the New York Times, Aug. 10, 1992]

TIME FOR TOUGH TALK

(By Michael Crichton)

SANTA MONICA, CA. Now that "Rising Sun" is off the best-seller list and the hysteria surrounding the novel has faded, it's worth noting that the issue at the center of it—America's longterm economic decline—continues to be ignored. The only candidates to address our long-term economic troubles,

Ross Perot and Paul Tsongas, are gone. Neither George Bush nor Bill Clinton seems willing to talk about anything except near-term palliative steps. Meanwhile, Americas strategic long-term problems are growing rapidly worse.

A decade ago, this country was the world leader in every major technological area and had the world's highest gross national product per capita. Today, we have lost the lead in most technologies and are falling behind in the rest. In no area have we gained ground. We now rank fifth in G.N.P. per capita. Real wages have slipped in 1960's levels. And our national debt has tripled, creating a burden that threatens our economic recovery.

It's against this background of precipitate decline that the reviews of "Rising Sun" derive their significance. The thrust of the reviews has been to deflect attention from the underlying issues. I don't know why we can't talk about our decline, but we can't. We're in severe denial.

Instead of discussing that decline, reviewers talked about racism or anti-Semitism or evoked conspiratorial imagery about our economic competitors. In tone, this misdirection smacks of political correctness, and it profoundly trivializes the problems we face. Espousing the right views at a cocktail party or in a newspaper column is no substitute for capital investment. Nor will opinion change the harsh reality of declining real wages, stagnant productivity, shrinking capital investment and mounting public and private debt.

Yet these economic realities determines the quality of life for the people of this or any other country. For example, there has been much concern expressed about the widening gap between rich and poor in America, as if this were a moral issue. But there is plenty of evidence that this gap is simply a function of disinvestment. Historically, nations with a healthy, growing economy have a small gap between rich and poor, as America did in the 50's. In stagnant economies, the gap widens, as it has lately in America. Should we bemoan our state—or take the steps necessary to get our economy growing again?

Certainly, attacking the bearer of bad news does not impugn the economic message. Calling me a racist does not address the economic issues I raised. Before I began "Rising Sun," I worked on a book about Benjamin Franklin, a man of infinite good sense. After a vicious, humiliating public attack on him in 1774, he said: "Grievances cannot be redressed unless they are known; and they cannot be known but through complaints * * * If these are deemed affronts, and the messengers punished as offenders, who will henceforth send petitions? * * * Where complaining is a crime, hope becomes despair."

Finally without a full discussion of the roots of America's economic decline and its profound impact on American society we are doomed to more of the same. Because the global economy requires that we now reinvent ourselves economically—just as the Germans reinvented themselves in the 19th century, to meet England's challenge; just as the Japanese have twice reinvented themselves, since the arrival of Admiral Perry's ships in 1853. Now America must reinvent itself to survive.

Are we, as a nation, to be rich or poor? Are we going to increase our productivity or sink further into decline? If we are to reverse the trends of three decades, what steps must we take?

These complex questions affect the lives of every American, rich or poor. They will require planning and sacrifice. They will involve a change in the way power is administered in this country, and by whom. Such change can occur only after passionate and heated debate. We need to begin that debate now.

Our relations with Japan are now just one aspect of our economic future. That relationship is useful as a yardstick of our decline—as a way to assess what we are doing wrong. But here, too, we must have freedom to debate.

In the decade since Chalmers Johnson first proposed the "revisionist" view of Japan, even more thinkers have come to agree, in some form, with his perception that differences between the economic systems of Japan and America must be addressed. The discussion has widened from academic to journalistic circles, and now to popular culture. Whatever the merits of the revisionist position, it will only be resolved by a free expression of opinion on all sides.

We have had a long time when it was deemed impolite to discuss Japanese-American conflicts in any detail. As a result, our ears are unaccustomed to the sound of sharp voices on this subject. But the problem is not that voices are now too strident. The problem is that there has been silence for far too long.

FREEDOM OF THE PRESS

HON. DANTE B. FASCELL

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 12, 1992

Mr. FASCELL. Mr. Speaker, one of the most fundamental rights guaranteed to those living in a democracy is freedom of speech. A free and independent media is essential for ensuring freedom of speech and expression as well as for holding a government accountable for its actions. A free press is the guarantor of the people's right to know and to act upon their rights in a democracy.

Throughout our rapidly changing world, wherever former dictatorships or military regimes are transforming themselves into nascent democracies, the role of the press is being questioned. Long-established practices of government control and censorship are being abandoned. The press is no longer the mouthpiece of the state but, in many cases, it is not yet the watchdog of a free people. In the newly emerging democracies of Eastern Europe and the former Soviet Union, for instance, the challenge of ensuring a media independent of government influence has not yet been met.

This challenge, and ways to address it, are the subject of an excellent piece that appeared in the International Herald Tribune last month. Entitled "Boosting Press Freedom in the East," the article is by Leonard Marks, a former director of the U.S. Information Service, a leading spokesman for the World Press Freedom Committee, and an old friend of mine. Mr. Speaker, I am pleased to insert this article in the RECORD and draw the attention of our colleagues to it.

[From the International Herald Tribune, July 31, 1992]

BOOSTING PRESS FREEDOM IN THE EAST

(By Leonard H. Marks)

Washington—Boris Yeltsin's ongoing battle with his parliament to prevent Izvestia from becoming a house organ is yet another illustration of the struggle the media face to be free of government control in the ex-Soviet Union and the former Warsaw Pact countries.

The Communist Party has been dissolved; the Soviet Union is a relic of history, and new leaders proclaim their dedication to democracy and free-market principles. But glasnost remains a distant goal.

There is an unparalleled opportunity now to help the new democracies more toward freedom and set out proper signposts for the news media. National news agencies are still government-controlled; newsprint is rationed; government officials determine which papers or magazines shall be published at state printing houses and the post office decides what to distribute.

In each country, parliamentary commissions are wrestling with new media laws, but there is deep division as to whether, and to what extent, the press shall be licensed and controlled. With few exceptions, radio and television remain under state control. Just as the Russian parliament seeks to make Izvestia its mouthpiece, governments regard national television as an official institution to carry out their dictates and support their policies.

In Hungary, the prime minister has campaigned to discharge executives of state-owned radio. In Poland, a political ally of the prime minister has called for the government "to interfere energetically in the media and introduce some order." Press groups have vigorously resisted these moves.

During the revolts against communism, more than 1,000 underground papers sprang up in Polish factories, villages and neighborhoods. Much the same happened in neighboring countries. Journalists who dedicated themselves at great personal risk to the principles of free expression and free enterprise are clinging to those ideas. But they need support from the West.

Of course, the transition to a market economy takes time, and these countries have not yet reached the stage where advertising revenues and venture capital are sufficient to support the press. But it is clear that democracy will not flourish until the news media achieve independence.

At the recent meeting in Helsinki of the Conference on Security and Cooperation in Europe, a Charter for a Free Press received strong support. Its principles were painstakingly worked out five years ago in London by journalists from 34 countries meeting under the aegis of the World Press Freedom Committee.

The charter rejects censorship, official licensing of journalists and other restrictions. It supports free access to information by journalists and freedom to operate across borders. It stresses that states must not restrict access to newsprint, printing facilities and distribution systems and must make broadcast facilities available to independent groups. It concludes: "Journalists, like all citizens, must be secure in their persons and be given full protection of law. Journalists working in war zones are recognized as civilians enjoying all rights and immunities accorded to other civilians."

The director-general of Unesco, Federico Mayor Zaragoza endorsed the charter. He proposed a campaign among CSCE countries to make the role of the free press better known. And at a meeting next year of member-nations, press freedom will be discussed by private groups. This session should be an opportunity for the media to demonstrate that they are not lapdogs of government, but watchdogs sniffing for the truth.

RESOLUTION ACKNOWLEDGING THE HUNDREDTH ANNIVERSARY OF THE OVERTHROW OF THE KINGDOM OF HAWAII

HON. NEIL ABERCROMBIE

OF HAWAII

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 12, 1992

Mr. ABERCROMBIE. Mr. Speaker, today I have introduced, with my colleague from Hawaii Representative MINK as an original cosponsor, a joint resolution acknowledging the 100th anniversary of the overthrow of the Kingdom of Hawaii. As we approach this anniversary, the Native Hawaiians are still suffering the aftershocks of that event. Native Hawaiians are overrepresented in nearly every index of social distress—lower life expectancy, illness, homelessness, unemployment. It is important to note that Native Hawaiians are becoming strangers in their own land. Just as the introduction of alien species to the Hawaiian Islands has reduced the populations of native flora and fauna, so have the effects of Western settlement abetted the destruction of the Native Hawaiian social fabric. This joint resolution offers an apology to Native Hawaiians on behalf of the United States for the overthrow of the Kingdom of Hawaii.

Native Hawaiians are the heirs of an internationally recognized independent government that was extinguished with the active participation of U.S. military forces in the overthrow of the Hawaiian monarchy in 1893. Although the Bush administration has repeatedly denied any Federal Trust responsibility over Native Hawaiians, it gives me great hope to know that included in the 1992 Democratic Platform is a provision stating "the U.S. Government respects its trustee obligations to the inhabitants of Hawai'i generally and to Native Hawaiians in particular." With the anniversary of the overthrow nearly upon us, there could be no more fitting occasion to renew and reaffirm the commitment made by the Hawaiian Homes Commission Act of 1921. The Federal Trust obligation began with the enactment of that act. it was acknowledged by successive administrations throughout. Hawaii's territorial period and long after Hawaii became a State. This act recognized the Federal obligation to alleviate the hardships imposed on Native Hawaiians as a consequence of the overthrow of the Hawaiian Kingdom.

The Hawaii Congressional Delegation offers this apology resolution as an indication of its commitment to pursue further recognition of Federal responsibility to Native Hawaiians in hopes of achieving something that is long overdue—a small measure of justice for the Hawaiian people.

Mr. Speaker, aloha and mahalo.

TRIBUTE TO EVELIO TAILLACQ, GIFTED ARTIST

HON. ILEANA ROS-LEHTINEN

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 12, 1992

Ms. ROS-LEHTINEN. Mr. Speaker, I wish to bring to the attention of the House and of the public the achievements of one of my constituents, Mr. Evelio Taillacq, author, producer, and actor.

Mr. Taillacq is one of Florida's most talented actors. He has received numerous awards for acting, directing, and producing both radio and television performances. Among these honors, he has won the award for best show, best acting, and best director from the art critics and commentators association, "Premio de la Asociación de Críticos y Comentaristas de Arte" (ACCA) of Miami. He also won the award for artistic excellence of the North American critics' association, "Premio a la Excelencia Artística de la Asociación de Críticos de Norteamérica."

Mr Taillacq's devotion and commitment to the artistic field has been recognized by the media. He has won national and international acclaim by being revered by a myriad of newspapers: Diario Las Americas of Miami; Diario 16 of Madrid, Spain; Cartel of Miami; El Nuevo San Juan of Puerto Rico; Diario Las Americas, United States; Que Pasa New Orleans, United States; and Diario de Yucatan of Merida, Mexico.

Mr. Taillacq's latest work is "Yo Quiero Ser," presented by El Centro Dramático de Miami, the Dramátic Center of Miami. Mr. Taillacq is playwright, producer, star, and is also in charge of music. It is being directed by Maria Julia Casanova. The technical staff includes Jimmy Torres for wardrobe; Asela Torres for photography; Richard Gonzalez, assistant producer; Ruben Romeu, assistant for lighting; Miami Stage Craft for lights; and Noila Martinez for public relations.

Mr. Taillacq began his illustrious artistic career in Cuba where he was considered one of the country's premier actors. He earned a degree in art history from the University of Havana, Universidad de La Habana; and graduated from the School of Dramatic Arts from the Cuban Institute of Radio and Television, Escuela de Artes Escénicas del Instituto Cubano de Radio y Televisión. In Cuba, he starred in numerous works in both radio and television. He has interpreted many classical characters including Hamlet, Romeo, and Lucien de Rubempre, to name a few.

In the United States, Mr. Taillacq has acted in dozens of pieces, included in these are Damas Retiradas," "La Rosa Tatuada," and "Corona de Amor." He has produced over a dozen works and produces and directs "El Primer Festival de teatro de la Crueldad de Miami." He founded and directs "El Centro Dramático Antonin Artaud." Mr. Taillacq's love of his art may be seen by his past career as teacher of voice, diction, and phonics at Florida International University. He is currently president of "El Centro Dramático de Miami."

Mr. Taillacq's devotion to his career and to widening the artistic horizons of the people of South Florida continues. His future plans include future performances of "Maloja 257," "Calígula, Final de un Sueño," "Viaje de un Largo Día hacia la Noche," "El Precio," and "El Cuento del Zoológico."

It is a privilege for our community to have a talented and gifted person such as Mr. Evelio Taillacq. He is a motivated and caring individual who has worked hard for the artistic community. It is an honor to make the House and the public aware of this great talent.

CAPTIVE NATIONS WEEK

HON. GERALD B.H. SOLOMON

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 12, 1992

Mr. SOLOMON. Mr. Speaker, I rise once again to commemorate America's observance of Captive Nations Week.

During the past few years, the world has seen unprecedented ideological and political changes across the European and Asian landscapes. Totalitarian governments and empires have collapsed, igniting the sparks of democracy and freedom. However, despite these immense strides of political and ideological progress, the world has not yet been completely purged of the evils of totalitarian dictatorship. As stated in the proclamation below, the people of 14 nations of the world still remain under the manipulative bureaucracies of Communist dictatorships.

As Americans, who ardently espouse and cherish those exact freedoms being withheld from these nation's citizens, it is imperative that we, as a Nation, continue to strive for their realization of democracy.

It is in this spirit of patriotism, democracy, and responsibility that States and cities across America declare the week of July 19–25, 1992, to be Captive Nations Week and issue the following Captive Nations Proclamation.

Whereas, the dramatic changes in Central Europe, within the former Soviet Union, Central Asia, Africa and Central America have fully vindicated the conceptual framework of the Captive Nations Week Resolution, which the United States Congress passed in 1959 and President Eisenhower signed into law as Public Law 86–90; and

Whereas, the resolution of 1959 demonstrated the foresight of the U.S. Congress and has consistently been, through official and private media, a basic source of inspiration, hope and confidence to all the captive nations; and

Whereas, the recent liberation of many captive nations is great cause for jubilation, it is vitally important to bear in mind that numerous other captive nations are under communist dictatorship and the residual structure of Soviet Russian imperialism still exist among others, Cuba, Mainland China, North Korea, Tibet, North Caucasis, Cossackis, Idel-Ural (Tartarstan) and the Far Eastern Republic (Siberyaks); and

Whereas, the freedom-loving peoples of the remaining captive nations (over 1 billion) look to the United States as the citadel of human freedom and to the people of the United States as leaders in bringing about their freedom and independence from communist dictatorship and imperial rule; and

Whereas, the Congress of the United States by unanimous vote passed Public Law 86–90, establishing the third week in July each year as "Captive Nations Week" and inviting the people of the United States to observe such a week with appropriate prayers, ceremonies and activities; expressing their great sympathy with and support for the just aspirations of the still remaining captive peoples.

Now, therefore the cities and states listed below, do hereby proclaim that the week commencing July 19, 1992 be observed as "Captive Nations Week" and call upon their citizens to join with others in observing this week by offering prayers and dedicating

their efforts for the peaceful liberation of the remaining captive nations.

In addition to the proclamations which I entered into the RECORD on July 22, 1992, I have since that time received proclamations from the States of Alaska, Arizona, Connecticut, Massachusetts, and Virginia.

Proclamations have also been issued by the cities of Allentown, PA; Austin, TX; Chula Vista, CA; Cincinnati, OH; Columbus, OH; Corinth, NY; Escondido, CA; Fort Wayne, IN; Garden Grove, CA; Hialeah, FL; Irvine, CA; Mechanicville, NY; Omaha, NE; Ontario, CA; Pinellas County, FL, and Portland, OR.

EAGLE ELEMENTARY SCHOOL RECEIVES PIONEERING PARTNERS AWARD

HON. GEORGE J. HOCHBRUECKNER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 12, 1992

Mr. HOCHBRUECKNER. Mr. Speaker, I rise today to honor Eagle Elementary School from Medford, NY, for being selected as a 1992 Council of Great Lakes Governors Pioneering Partners award winner.

Pioneering Partners, as conceived by the Great Lakes Governors in the fall of 1991, seeks to accelerate the use of technology based instruction in elementary and secondary schools. The sponsor of the program, GTE, provides computers and training assistance to teachers in order to promote technology based instruction in the classroom. The Pioneering Partner's strength is that the program enhances traditional classroom instruction by providing students with new interactive learning experiences while teaching them valuable computer information skills.

Eagle Elementary School was one of only three pioneering teams in New York State, out of 25 participants in the program, to receive an award of excellence. I am pleased to note that more Eagle Elementary School participants received top scores in total reading, language, and spelling skills tests than any other participating team.

The Patchogue-Medford School District did an exemplary job of distributing computers throughout the school district to benefit not only the students, but faculty and administrators as well. Workshops were held to reinforce computer based instruction and to help teachers further explore technology. In an effort to encourage communication between teachers, parents, and administrators, parents also took part in workshops and software evaluation. These open lines of communication contributed greatly to the success of Eagle Elementary's pilot project.

I would like to congratulate Eagle Elementary School's team members, Dr. Dorothy Klein, Elizabeth Combs, Ann Fichtner, Pamela Wright, and especially the participating students. Through hard work, creative thinking, and the adept use of innovative technology, these students were able to effectively utilize the tools available to them to create a renewed excitement for learning.

Mr. Speaker, once again, it is with great pride that I recognize the Eagle Elementary School from the First Congressional District of Long Island, NY, for their outstanding performance. Congratulations to them for all their hard work and effort.

LOURDES ACADEMY CENTENNIAL CELEBRATION: 1892–1992

HON. MARY ROSE OAKAR

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 12, 1992

Ms. OAKAR. Mr. Speaker, it is with great pride that I rise today to recognize the outstanding support and loyalty shown by the alumnae of Lourdes Academy of Cleveland, OH, as they celebrate the 100th anniversary of its founding. I also wish to commend the Sisters of the Humility of Mary for their dedication, hard work, and commitment to providing educational excellence to those young ladies who were enrolled in Lourdes Academy under their supervision. In addition, the lay faculty has always been extremely supportive.

On February 10, 1892, permission was granted to the Sisters of the Humility of Mary by the Rt. Rev. Msgr. F.M. Boff, administrator of the Cleveland Diocese, to begin a school for students living west of the Cuyahoga River and interested in obtaining a quality Catholic education. The following day, on February 11, 1892, the Sisters purchased a brick residence and a large lot at 505 Lorain Avenue for $9,000. It was also on this day that the Feast of Our Lady of Lourdes was celebrated around the world for the first time. This coincidence led the Sisters to name the school Lourdes Academy. The school opened as an academy for young women that fall.

By 1897, the increasing enrollment prompted the Sisters to purchase a residence on Franklin Avenue, and this location became the new home of Lourdes Academy. Through the years, Lourdes Academy continued to grow in both size and popularity. Soon, despite the construction of an additional building, the facilities on Franklin were no longer adequate for the school. With World War II raging across the globe, building permits were difficult to obtain. In 1944, the school was moved from its Franklin Avenue location to the building which was once West Commerce High School at 4105 Bridge Avenue. Little did they know that this temporary location would last for over 25 years.

The existence of Lourdes Academy began to be threatened in the mid-1960's due to a delay in urban renewal plans. The former public school building that housed the over 600 young girls had been condemned three times previously, and the West Side renewal plan was not scheduled to begin for several years. As such, the school would be forced to move, rebuild, or close its doors forever. These threats, however, did not dampen the spirits of the young ladies at Lourdes. They continued to devote themselves to service and ministry to the community surrounding the school which had become the hallmark of Lourdes students. Outreach activities included a reading program for children at Riverview Community House, tutoring services at the West Side Community House, and visiting the County Home for the Aged. Other activities included clothing drives, Big Sister programs, and political awareness projects.

In 1967, Lourdes Academy celebrated its 75th anniversary. The Cleveland City Council extended its congratulations to the academy and expressed the sincere wish that the school would continue to prosper and grow in the community. A congressional resolution extolled the virtues of the school and extended congratulations to Sister Ellen Francis, then principal of Lourdes Academy:

> Lourdes has a tradition of rendering quality education to many generations of Clevelanders. Science, language, and speech competition in Ohio, as well as the nation, has been enlightened by the excellence of Lourdes Academy students * * * As Lourdes begins a new quarter century, I am convinced that Lourdes will always be a source of new and vital leadership.

Sadly, the praise and good wishes received in honor of the diamond jubilee were not enough. Final graduation ceremonies were held for the class of 1971, and remaining classes were split between Magnificat High School and Erieview Catholic High School.

The story of Lourdes Academy does not end there—neither does its spirit. Each year, an annual all-class reunion is held on February 11, the feast of Our Lady of Lourdes. I am proud to note, Mr. Speaker, that 1992 marks the 100th anniversary of the founding of Lourdes Academy. In honor of this occasion, a centennial celebration is being held on September 13, 1992, at the Cleveland Marriott Society Center. Close to 1,000 women are planning to participate in a special Mass celebrated by Bishop Quinn. The time for sharing will be well spent with guests who are traveling from all over the country and beyond to renew old friendships and bring back fond memories of days gone by.

An integral part of the centennial celebration, has been to financially assist with the development of a physical therapy program at the Villa Maria Community Center, the motherhouse for the Sisters of the Humility of Mary, located in Villa Maria, PA. With the overwhelming support of the alumnae, the goal has been exceeded.

Although Lourdes Academy no longer stands at 4105 Bridge Avenue, it is vividly remembered in the hearts and minds of the thousands of women who were educated there. Their individual development, social commitment, and leadership capabilities are directly credited to the time and energy spent by the Sisters of the Humility of Mary as they prepared these women for the challenges they would face.

The education of young women at Lourdes to develop women to their fullest capacity—spiritually, intellectually, physically, and emotionally was second to none. The confidence this type of education gave to its graduates was superior. On a personal note, I was fortunate to attend Lourdes and graduate from this magnificent institution. In addition, I was a lay teacher at Lourdes from 1962 to 1971. It was one of the finest experiences of my life. I join the thousands of graduates in quoting from our school song. "Lourdes we love you, you're our wonderful beloved Alma Mater. * * *"

Mr. Speaker, we remember Lourdes Academy, we commend the Sisters of the Humility

of Mary staff, and we congratulate the alumnae during this centennial celebration, September 13, 1992.

ADVISORY COMMITTEE ON VETERANS EMPLOYMENT AND TRAINING IN THE DEPARTMENT OF LABOR

HON. ELIZABETH J. PATTERSON

OF SOUTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 12, 1992

Mrs. PATTERSON. Mr. Speaker, I would like to urge the President to carry out the intent of Public Law 102–16, regarding the Advisory Committee on Veterans Employment and Training.

These veterans that are leaving the military today to seek employment are the same ones upon whom he so lavishly heaped praise during his State of the Union Address last January. The President, in that speech, praised our service men and women for their service to this country and pledged his commitment to serving their needs.

Mr. Speaker, as so often is the case with this administration, the President's words do not correspond with his actions. I urge the President to live up to his words—direct Secretary Martin to appoint the members to the Advisory Committee on Veterans Employment and Training so that we can more effectively implement the policy of increasing employment opportunities for veterans.

RAGE IN REPUBLIC OF BOSNIA-HERCEGOVINA

HON. PHILIP M. CRANE

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 12, 1992

Mr. CRANE. Mr. Speaker, while the civil war continues to rage in the republic of Bosnia-Hercegovina and we are reminded daily of the thousands of innocent civilians caught in the bloody crossfire, many are calling upon U.S. military intervention as an easy means to resolve the current conflict. However, the fact of the matter is that the prospect of a quick and decisive military victory, as experienced in the Persian Gulf conflict, is extremely slim while the potential of repeating a long, drawn-out, guerrilla-style war as fought in Vietnam is enormous. I urge my colleagues to read the following interivew with General Lewis MacKenzie who reiterates the need for negotiations, and the futility of U.S. military intervention, in putting to an end the tragic bloodletting in Bosnia-Hercegovina.

[From Time Magazine, Aug. 17, 1992]

THE U.N.'S OUTGOING MAN IN SARAJEVO, GENERAL LEWIS MACKENZIE, IS NOT OPTIMISTIC

(By Daniel Benjamin)

Q. Sarajevo airport was shut down again this week. Has the U.N.'s authority in Sarajevo been exhausted?

A. I've always said the agreement to protect the airport from ground attack was hanging by a very fine thread. When you start taking mortar fire on the bunkers our people are living in and on the tarmac, that is a serious escalation. Before, we were able to justify putting our finger in the flame despite fighting going on close to the airport. The odd round dropping short can be rationalized, but not when the airport is being directly targeted.

Q. What do you think it would take to impose peace on Sarajevo itself?

A. Well, from the tactical point of view, having to control and occupy and dominate all the features around Sarajevo and the city itself. Cities are famous for gobbling up soldiers. I haven't done the detailed analysis, but a figure of 75,000 would probably be modest, if there is resistance. And the resistance has to be handled 24 hours a day by people on the ground. Air power can assist, but it can't stop people from reoccupying positions.

Q. That's assuming that the act of bringing in a large military force itself wouldn't have a powerful psychological impact.

A. Yes. It's also presupposing that the peacemakers can stay for a long time. Because what happens when they leave? Everything goes back to the way it was because so much hate has been generated. And then you have a force that is isolated. You don't have secure communications. You're sitting in the middle of a very, very hilly country.

Q. What would be the difference between an operation in Bosnia and the Gulf War?

A. The same characteristic that dominates every military operation: the ground. In Desert Storm there was a relatively sophisticated infrastructure on which to develop your force. There were tremendous areas of land on which to put it together and to train and sort out problems—and that took four months. Where are you going to do that in Bosnia?

Q. You would not be able to wage tank warfare, as in the Middle East?

A. No, you're talking infantry battles. You're talking about classic, classic guerilla country.

Q. Do you think the Serbs, Croats and Bosnian Muslims would fight in the face of a huge force?

A. If I put myself in their shoes, there is no option. You are talking about backing the Serbs into a corner. And if you read history, it's not a very good idea. You're talking about an organization with a significant capacity to fight and with a significant amount of equipment. Serbia/Montenegro must be one of the most densely militarized areas of the world now.

Q. To "pacify" all of Bosnia-Herzegovina, what size military operation would be needed?

A. Well, the Germans gave it a try with 30 divisions, and they weren't successful. A lot of people were killed. If there were resistance throughout Bosnia-Herzegovina and you had to occupy it, you could be talking up to 1 million troops.

Q. Why not bomb artillery positions and send in helicopter gunships?

A. You wouldn't be able to find all the weapons systems that are doing the damage. Mortars are the favored weapon in Bosnia, and they're hidden very easily and carried around in everything from school buses to cars. What's much more important is that if you do that, then the U.N. peacekeeping force is, whether it likes it or not, affiliated with the side not being attacked. Therefore you have sitting there 1,600 [U.N. soldier] hostages.

Q. Can't you remove those troops in advance of any action?

A. If you do, that's an indication something big is going to happen. So you've got yourself a very nice cul-de-sac, unless you're prepared to sacrifice 1,600 people. I wouldn't think that would be a particularly good idea.

Q. Is there anything that would rapidly improve the situation in Bosinia?

A. Yes—and the presidency [of Bosnia] will hate to hear me say this: negotiations with the Serbian side within Bosnia. The presidency will not talk to the other side because they say this is a war of aggression controlled by Belgrade. They feel that if they start to talk, the status quo will be frozen, and they don't have a lot of territory. If you don't want to talk, then there's only one solution: one side wins, one side loses and a lot of people get killed in between. So my feeling is that pressure has to be brought to bear to get them to the table. The Serbs will talk any time, any place, at any level because they probably have what they want. It seems to me talking could get the Bosnian Muslims territory.

Q. Is anyone in the different leaderships really calling the shots? Or is much of the fighting being driven at the grass roots by units that decide they just want to fire their mortars?

A. You're absolutely right, there are large numbers of individuals and units that are out of control. But they are out of control within a defined chain of command. There's ample evidence of units operating on their own agenda—today. Maybe tomorrow they'll operate on a common agenda. There are some individuals and small organizations in Sarajevo who are paid to kill. They get a bonus. Journalists are favorite targets in Sarajevo. There are no video games in Sarajevo, so the next best thing is to fire at a TV car going by.

Q. Is the word genocide appropriate for Yugoslavia?

A. I can't comment in detail on that because my mandate was limited to Sarajevo. However, let me assure you that I have a pound of paper for each hand of protests from one side accusing the other of running detention camps, concentration camps, prisoner-of-war camps.

Q. You don't entirely blame the Serbs?

A. When people ask me who do you blame, I say, "Give me the day and the month, and I'll tell you" What the Serbs did three months ago was totally unacceptable: the city was bombarded, civilians were targeted. Today it is more complex. What we now see from the Bosnian presidency's side is that it's in their interest to keep the thing going and get the Serbs to retaliate in order to convince the international community that intervention is a good idea. So I blame both sides.

Q. You have had nine peacekeeping tours in places like Gaza, Nicaragua and Cyprus. How does this compare?

A. You can take the hate from all those previous tours and multiply by 10. I've never seen anything close to that. Even if only 10% of what each side accuses the other of doing is true, in the minds of the people it has grown to horrendous proportions. If the leadership said, "O.K., let's sit down and sort this thing out," I'm sure whether people would accept that because there is so much hate for the other side. Really deep, gut-wrenching hate. Once you start calling them baby killers, pregnant-women killers, and talk about cooking babies, those are not good grounds for negotiations.

Q. What difference did that make for your work?

A. On any of those previous tours, when you brokered a deal, it was followed through. And if somebody along the line didn't follow

through, they were put in their place. It's relatively easy to broker a deal in Bosnia. It's the execution that is impossible.

Q. After your experience in Sarajevo, do you think there is still a clear line between peacekeeping and peacemaking?

A. Yes, there is a clear line. It became cloudy in Sarajevo only because we went there with good intentions and then the war started, and that put us in an absolutely unique position.

Peace imposition is war fighting. It's going in, taking on somebody and beating them. In order to use a peacekeeping force, you have to have a cease-fire. But we got ourselves into this bind by having a war start around us.

Q. So you're a pessimist?

A. I used to use the term guarded optimism, but I've dropped even that from my vocabulary. I still have hope. But I won't be optimistic until they start to talk.

FARAG PERI'S PHOTOGRAPHS TO BE ON DISPLAY

HON. DON YOUNG

OF ALASKA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 12, 1992

Mr. YOUNG of Alaska. Mr. Speaker, it is with a great deal of pleasure that I would like to invite all of my colleagues and their staffs to view some magnificent photographs of Alaska. I have the honor of sponsoring this exhibition of photographs by the noted Israeli photographer Farag Peri. They will be on display during the week of September 8–11 in the Cannon Rotunda.

For those of you who have never seen the beauty of Alaska first hand, who have not experienced the thrill of seeing the wildlife and the fauna, who have not seen the diversity of people who populate my beautiful State, these photos will give you a sense of what Alaska is all about. For those who have been fortunate enough to have visited Alaska, these photos will remind you of how unique and exquisite Alaska truly is.

These photographs underscore the fact that Alaska has been able to utilize its vast natural resources while preserving the natural beauty of the land. Nature and industry coexist to provide an ecologically safe, yet practical, example of modern resource development. Feeding caribou share a meadow with a huge stilted pipeline carrying oil to Valdez; small planes fly over vast reaches of wilderness while Eskimos hunt in kayaks as their ancestors have done for generations.

In Alaska, past and present meet in a rugged land to help create a brighter future for all of my State's inhabitants. When you look at these spendid photographs by Farag Peri, I especially urge you to look carefully at the faces of the children—the faces of Alaska's future.

What makes Farag's feel for Alaska so particularly unique is his own background. One would not expect someone with his biography to capture the pulse of Alaska with such insight. This exhibit is truly a testament of his skills as an artist and his talents as a photographer.

Farag Peri is among the most renowned photographers in Israel. His first name alone is recognized in Israel as a symbol of photographic excellence.

Farag was born in Iraq, where he studied under the Court photographer. He was forced to flee from Iraq after the revolution in 1950.

Farag's experiences are proof that Israel, like the United States, offers unlimited opportunites to those willing to work hard. Like the United States, Israel is composed largely of immigrants, and the children of immigrants, who have been able to blend their abilities in order to establish a flourishing, democratic nation.

Farag emigrated to Israel in 1951. He arrived penniless and had a large family to support. He had only his skills as photographer to rely upon. He eventually opened a small studio which has since grown into the largest studio in Israel.

After establishing himself economically, Farag traveled the globe to capture on film the beauty of the planet.

This is the third time that Farag's photos will be displayed in the Cannon Rotunda. His previous shows dealt with the Sinai and with Jerusalem.

It is my hope that all Members and their staffs will take a few minutes off from their busy schedules to stop by the Cannon Rotunda to view these photos and to reflect upon the beauty and magnificence of Alaska.

CONGRATULATE UKRAINE ON THE OCCASION OF ITS 1ST ANNIVERSARY

HON. WILLIAM D. FORD

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 12, 1992

Mr. FORD of Michigan. Mr. Speaker, I rise to congratulate the emerging Republic of Ukraine on the occasion of its 1st Anniversary. The Parliament of Ukraine has designated August 24, 1991 as Ukraine's "Independence Day."

Last August, Ukraine finally removed the shackles of oppression. While Ukraine enjoyed fleeting moments of freedom in the aftermath of World War I, this time the nation appears poised to establish permanent liberation. This fact gives me great joy. For years, I have witnessed the efforts of Ukrainian and Ukrainian-Americans, many who reside in Michigan, to achieve this goal of freedom.

On numerous occasions throughout my career here in the House, I have taken to the well in January to commemorate the anniversary of Ukrainian "independence." As my colleagues may know, on January 22, 1918, the Ukrainian Central Committee proclaimed an "independent Ukrainian national republic" dedicated to the principles of democracy, tolerance, and human rights. This declaration, made as the bullets of Russian guns echoed across the Dnieper River, was the culmination of years of struggle against czarist oppression. Russian czars followed the lead of other despots before them in stifling the Ukrainian people's drive for liberty and freedom. Indeed, rulers from the Hapsburg Empire and Poland at different times throughout the 17th, 18th, and 19th centuries have seen to it that Ukraine remain under the control of others.

Tragically, the independence declared that cold January day was short-lived. By 1920, the Soviet regime and Poland had overrun the young republic dividing and conquering it. Twenty-five years later, Stalin ordered the seizure of the Western half of Ukraine. So began decades of communist tyranny over the small nation.

Little did I know that my words on January 18, 1991 would be the last ones I uttered in commemoration of Ukraine's brief stretch of liberty. In August, the attempted coup by communist hardliners was crushed as people throughout U.S.S.R. refused to fall prey to their predictions of chaos if communism was shunted aside. While many of us conjure up the image of Boris Yeltsin atop a Soviet tank as the symbol of defiance toward the communists, millions of others, Russian, Ukrainians, Armenians, and citizens of the other republics, all deserve credit for their defeat. On August 24, with the coup assuredly smashed, the Parliament of Ukraine proclaimed an Independent Ukraine.

As my colleagues know, the months that followed have witnessed a succession of similar pronouncements by Ukraine's fellow republics of the former Soviety Union. Ukrainians and other citizens of the respective new nations, at last, are beginning to enjoy the fruits of liberty we often take for granted here at home. We rarely think about the stock we place in our ability to speak openly, to worship our God, to vote, to receive a fair trial, even the ability to purchase any goods the world produces. Ukrainians, however, are enjoying these freedoms for the frist time.

On December 1, Ukrainians exhibited how strongly they feel about their new freedoms. A full 90 percent of voting Ukrainians voted to approve a referendum in support of independence. On the same day, Leonid Kravchuck was elected President of Ukraine.

While the Ukrainian people and Leonid Kravchuck have a long road ahead of them to establish a strong Ukrainian nation, I have every confidence that their efforts will meet with success.

THE HIDDEN ANSWER LIES IN PREVENTIVE CARE

HON. PETER HOAGLAND

OF NEBRASKA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 12, 1992

Mr. HOAGLAND. Mr. Speaker, today, health care is devouring a large part of family budgets. In Nebraska, my home State, families are spending 13 percent of their family income on health care expenditures. And health care costs are undercutting our faltering economy. The failure to grapple with the spiralling costs of health care not only hurts the quality and accessibility of health care in the United States, but it affects our jobs, education, and competitiveness as a nation.

As we evaluate comprehensive solutions to cure our ailing system, there are several small steps we could take. Preventive care is one. For too long our health care system has paid billions to cure and treat illness rather than invest in preventive services which keep people

healthy and out of emergency rooms and hospitals.

Immunizations are one of the most effective means of preventing disease and saving health care dollars. Studies show that every $1 spent on immunizations saves $12 in later medical costs for treatment of vaccine-preventable diseases. Unfortunately, our success has been declining in recent years.

While the United States has been largely successful in vaccinating school-age children—95 percent or more of children over the age of 5 are fully immunized—our preschoolers are not as fortunate. The sad fact is that about one-third of two-year-olds in the United States are not immunized against deadly disease. As other industralized nations are improving their vaccination rates, the United States ranking is falling to number 16 behind other nations in the percentage of one-year-olds vaccinated against polio. The percentage of minority children immunized compared to other countries puts us at number 70.

This trend is frightening. There are many reasons children do not get proper immunizations, from parental indifference to high costs. Declining immunization, in part, reflects a large lack of access to basic health services for too many children. The Journal of the American Medical Association, has stated that more than 12 million children, a fifth of all those under 18, do not receive timely, adequate, preventive health care. This means that one of out of every five children misses immunizations, well-baby checkups, blood tests, and other preventive health services that promote good health and normal growth.

I have introduced two bills to address childhood immunizations. H.R. 5247 would require that hospitals provide professioinally-prepared information about vaccinations to parents of all newborns. Parents need to be educated on the importance of immunizations, the type of immunizations recommended by doctors, and the recommended schedule.

My second immunization bill, H.R. 5242, tries to address the fact that many children do not get their shots because parents cannot make the many visits to the doctor or health center required. Under the immunization schedule recommended by pediatricians in this country, a child should have received 11 shots and taken 4 doses of oral vaccine in 5 different visits by the time he or she enters kindergarten. H.R. 5242 would increase the funds for the National Institutes of Health to accelerate research on a one-time supervaccine in an effort to make immunization programs more available to children and eliminate the hassle factor for parents.

Health professionals have recognized the value of preventive services for mamy years. It is now time for Congress to get in step and encourage efforts that keep our children healthy.

GAMING ON MONTANA'S INDIAN RESERVATIONS

HON. PAT WILLIAMS

OF MONTANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 12, 1992

Mr. WILLIAMS. Mr. Speaker, I am introducing a bill today that will extend the amount of time that the Montana tribes and the State of Montana have to negotiate their gaming compacts as required by the Indian Gaming Regulatory Act. It has been brought to me for action by the Montana Tribal Chairmen's Association and the attorney general for the State of Montana.

As required by the Indian Gaming Regulatory Act, the tribes and the State have been working hard to reach compacts. Out of seven Montana tribes only one, to date, has reached a compact. The others simply need additional time for negotiation and a year is not unreasonable.

On June 25, 1992, the U.S. attorney for Montana announced that she viewed class III gaming on Montana's Indian reservations as illegal, absent a State-tribal gaming compact. The Indian Gaming Regulatory Act was amended last December in Public Law 102–238. At that time it was the intent of Congress to extend the time for Montana's tribes and the State of Montana to negotiate a compact. When the U.S. attorney for Montana gave the opinion that the Johnson Act was overriding of that extension and ordered that the machines be shut down it caused a great deal of economic distress for Montana's Indian tribes and the non-Indians who operate businesses on the reservations. Many employees have been laid off as a result of this action, which is having an economic ripple effect throughout the area. Tribal, State, and local governments are also losing a great deal of revenue due to this decision. It is estimated that the Flathead Reservation alone generates as much as $1 million a year in State revenues.

My bill allows those games that were owned or being conducted on June 24, the day they were shut off, to be run during the extension. It simply allows the tribes and business owners to plug in the machines they owned or operated when the U.S. attorney for Montana made her announcement.

It seems very reasonable to me that we allow the tribes and the State the necessary time to negotiate these compacts without further disrupting the business of gaming on Montana's reservations.

MEDIA LET CLINTON LIE

HON. ROBERT K. DORNAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 12, 1992

Mr. DORNAN of California. Mr. Speaker, here is the Accurracy in Media, Inc., report on the Gennifer Flowers-Charlette Perry scandal that yesterday I promised I would submit for the Record. Read and weep.

MEDIA LET CLINTON LIE

The morning after Governor Bill Clinton emerged from the New Hampshire primary with a respectable second-place finish, he was on national television to declare himself "the comeback kid." He said on NBC's "Today Show" that finishing only eight points behind Paul Tsongas was a victory because "I had been devastated by a barrage of absolutely false charges." On ABC's "Good Morning America," he pushed the same theme, saying that the media had blocked out his message "with false charges." He told the voters, "Don't let the election be stolen from you by false charges." The interviewers did not challenge his description of the charges of marital infidelity and draft avoidance that had been leveled against him.

Clinton knew it was vital that he convince the voters that the charges were false. A Washington Post-ABC News poll on January 29 found that 54 percent of those surveyed felt that he should withdraw from the race if it was found that he was lying in denying that he had carried on an affair with Gennifer Flowers. An earlier ABC News poll found that 85 percent of those who took the position that he should withdraw if Flowers' charges were confirmed did so more because he had lied than because he had committed adultery. Time magazine said of Clinton in its February 3, issue, "If he's lying, he's finished. If Flowers' allegations are true, or are perceived as such, the question moves from infidelity to veracity, and Clinton can return to teaching law."

The media usually attach great importance to veracity in politicians and public officials. Last October the confirmation of Clarence Thomas to the Supreme Court hung on the question of who was telling the truth, he or Anita Hill. From Watergate to Iran-Contra, the media have demanded the heads of anyone caught lying. Benjamin C. Bradlee, the former executive editor of the Washington Post, explained his characterization of his paper's handling of the Iran-Contra scandal as "the most fun since Watergate" by saying, "Newspaper people get particularly excited when people fail to tell the truth and therefore interfere with the process of reporting." But in the Clinton-Flowers case, most of the media showed little interest in focusing on lying as the main issue once it became clear that there was solid evidence that Clinton was lying. They reported the evidence inadequately and buried it under a blanket of denials.

CLOUD OVER CLINTON

Bill Clinton took a big risk in running for the Democratic presidential nomination because there were things in his personal life that he knew would not bear public scrutiny. When he decided to enter the race last August, USA Today asked: "How would he handle unsubstantiated but persistent rumors about extramarital affairs? Wife Hillary said Tuesday such rumors are 'an intrusive and irrelevant issue.'" The New York Times, without describing the rumors, said, "Frustrated by a rumor campaign pushed by political opponents in Arkansas, Mr. Clinton caused a small stir a few weeks ago when he suggested that there were some questions from the press that an elected official should not have to answer.

Two days later Clinton appeared on all three network morning shows. The rumors of marital infidelity were raised in two of the three interviews. Asked if he was prepared to have his private life scrutinized, he followed the carefully thought-out strategy that he has stuck to ever since. That is to try to make reporters feel ashamed of asking about his private life. He said that what the voters thought was relevant depended in part on what reporters thought was relevant. He said

he would answer specific questions but that people in public life should not be expected to answer "general 'have you ever' questions."

According to Sydney Blumenthal of The New Republic, Clinton had already admitted his marital infidelity to his closest aides. He was confident that he could keep this from becoming an issue because no investigation had uncovered any proof of the allegations. Even the reporters The Washington Post sent to Arkansas to check out the rumors had come back empty-handed. Clinton was so confident that no "bogus, smoking bimbo," as he put it, would be found that he told Michael Kramer of Time, "I wish I could find a way to get all these stories out early so I don't have to deal with them after I'm nominated, when they can be distracting."

CLINTON GETS HIS WISH

Clinton's "wish" was realized on January 17 when the Star, a celebrity gossip tabloid, realized a story spelling out charges of Clinton's womanizing made by Larry Nichols, a former Arkansas state employee who had been fired for having run up a large bill for unauthorized long-distance phone calls. Nichols retaliated with a lawsuit in which he charged that the governor had used state funds in pursuing love affairs with five women. He identified the women in his pleadings. All five denied the allegations, including Gennifer Flowers.

Clinton promptly labeled the story "an absolute, total lie." At this point there was no evidence to substantiate Nichols' charges, but since they were made in court documents they were libel-proof. The New York Daily News, the New York Post, and The Boston Herald, as well as Fox TV immediately picked up the story from the Star, but it was ignored or treated gingerly by the TV networks and the prestige press. The New York Times carried a tiny AP story reporting Clinton's denial at the bottom of page 7. The Washington Post had a story at the top of page 10 that focused on how the media were handling the story. It said Journalists and political insiders had been waiting for months to see whether major news organizations would carry more than a hint of the allegations. Clinton provided additional grist for the tabloids when the anchorman of New Hampshire's dominant TV station, WMUR, asked him if he had ever had an extramarital affair. His reply was, "If I had, I wouldn't tell you." "NONE OF YOUR BUSINESS" was the blaring headline on the front page of The New York Post the next day.

SEX, LIES AND AUDIOTAPES

In the Democratic candidates' debate on January 19, moderator Cookie Roberts of ABC News asked Clinton to comment on the fear that the Republicans might be able to substantiate the charges that he was a womanizer. Clinton said it was highly unlikely that anything like that would happen since he had gone through 17 elections unscathed. But Gennifer Flowers had decided to tell all, and she had tapes of phone conversations with Clinton that she had recorded from December 1990 to January 1992. The Star had succeeded where others had failed by paying Flowers for her story and the tapes.

The tapes were important. Since Flowers had previously denied having an affair with Clinton, she would be accused of fabricating a story for money. Clinton tried hard to make the case labeling it "trash for cash." Others put it down as "checkbook journalism," something the prestige media deplore but occasionally engage in when they can't get an interview they want badly any other way. In addition to stressing the trash-for-cash theme. Clinton sought to discredit the story by portraying the Star as one of those supermarket tabloids that reported on men from Mars and people with cow heads. The Star editor, Richard Kaplan, denied that his paper carries that type of story.

On January 23, the Star released advance copies of its forthcoming issue with Flowers' story and transcripts of some of the phone conversations. The story described a torrid love affair that Flowers said began in 1977 when she was working as a reporter for KART-TV and ended in 1989 when she fell in love with an eligible bachelor she hoped to marry. The transcripts provide strong evidence that Clinton and Flowers had an intimate relationship which Clinton did not want exposed. In addition several people had been found who said they had known of the affair. These included a former coworker at KARK-TV and the eligible bachelor Flowers had hoped to marry. In between were her mothers, who had urged her to break with Clinton and a former roommate, who said she cleared out when Bill was coming to visit Flowers. Here was the substantiation of those rumors that The Washington Post and others had sought in vain.

WITHHOLDING THE EVIDENCE

Chagrined at being scooped by a supermarket tabloid, the prestige press suddenly lost interest in substantiating those rumors about Clinton. The New York Times refused to tell its readers about the evidence unearthed by the Star, and it didn't think anyone else should either. Executive editor Max Frankel sniffed, "I'm quite ashamed for my profession. We don't want to report on the candidates' sex lives. We don't want to take our news or our news tips from the likes of the Star . . . or from someone whose ultimate veracity we can't vouch for." So when Gennifer Flowers and her tapes appeared and threatened to destroy the Clinton candidacy, all the Times told its readers was that Clinton had denied her allegation that they had had a 12-year relationship. The tapes were not even mentioned, much less quoted.

The Flowers news conference on January 27 at which excerpts from the tapes were played was the lead story on all three networks news programs that night, making it difficult for the Times to continue to conceal the existence of the tapes from its readers. In the 14th paragraph of a story headlined "Clinton Attempts To Ignore Rumors." it described but did not quote the tapes. The description read, "The tone of the conversations was friendly but there was nothing in what Mr. Clinton said that proved a past or present sexual relationship. The few words of risque banter were uttered by Ms. Flowers. Mr. Clinton, whose voice sounded faint on the tapes, did not appear to respond. He has not denied that he knew her or talked to her on the phone."

It also ran an editorial to explain to its readers why it was not reporting the evidence that Clinton was lying. It noted that "responsible news organizations as well as scandal sheets" had inquired into rumors in Arkansas because "for a public servant to flaunt behavior many voters abhor . . . could imply a recklessness and audacity that deserves to be weighed at the ballot box." It said: "Mr. Clinton describes Gennifer Flowers as no more than a friendly acquaintance. Because the tape recordings she so far proffers don't appear to refute that characterization, there seems to be little basis for demanding further comment from the Clintons."

Only when Governor Mario Cuomo erupted over remarks made about him did the Times get around to quoting two sentences from the tapes—Flowers saying that she wouldn't be surprised if Cuomo had "some Mafioso major connections." and Clinton responding. "Well, he acts like one" That was two days after the New York Post had called attention to this insult on its front page.

The Washington Post was a little better, but not much. It said that passages could be found in the tapes that supported both Clinton's contention that he was only trying to comfort and calm a friendly acquaintance and Flowers' claim that they had been "more than that." Of course, people that have an intimate relationship don't betray that in every word they speak. People who don't have an intimate relationship don't discuss their sexual intimacy. The Post focused mainly on Clinton's denials, but it did quote 59 words from the tapes, and it devoted 360 words to statements by Flowers. It also mentioned that three of Flowers' friends had confirmed that they knew of her affair with Clinton.

The Associated Press quoted only 24 words from the tapes, including those about Governor Cuomo. It mentioned that the tapes included "explicit references by Flowers to sexual practices," but did not quote that or any passages that reflected the intimacy of Flowers' relationship with Clinton. AP reporter Dana Kennedy said, "Flowers' allegations are unsubstantiated" and the tape recordings "did not establish that there had been an affair."

What about the news magazines—Time, Newsweek and U.S. News & World Report? Like The New York Times they chose to characterize the tapes rather than expose their readers to excerpts from them. None of them quoted a single word from the tapes, not even the comments that angered Mario Cuomo. Time and U.S. News respectively assured their readers that the "brief excerpts" and "short snippets" released at Flowers' news conference "establish nothing" and "failed to prove much of anything." Newsweek was ambiguous, saying, "But the central charge (of the Star's article)—that audiotapes indicate Clinton did have an affair of some kind with Flowers—nonetheless kicked off another of those now classic media sex carnivals with Clinton as more compromised Clarence Thomas and Flowers as a less credible Anita Hill." But Newsweek demonstrated that it still thinks veracity matters. It listed five discrepancies that it found in Flowers' resume and two dates in her account of contacts with Clinton that appear to be in error. These nitpicks, in its view, make Flowers less credible than Bill Clinton, who has a lot more explaining to do about the content of the tapes than he has done in apologizing to Governor Cuomo and Senator Kerrey.

Since the AP, The Washington Post and The New York Times are the major suppliers of news to newspapers through the country, it is obvious that providing the evidence that showed that Clinton was lying was left largely to the tabloids. Network television contributed very little except for the reports on the Flowers news conference on January 27. The next night NBC's commentator, John Chancellor, noted that the Clintons had admitted (on "60 Minutes") to having had troubles in their marriage but claimed that all was now well. Chancellor said, "In a rational world that ought to end this business, but it probably won't the way things are going today." Well, it did. The story promptly dropped off the network television screen.

WHAT THE TAPES REVEAL

Contrary to what the Times and the AP said, the tapes make it clear (1) that Flowers

was more than "a friendly acquaintance," (2) that Clinton conspired with Flowers to cover up their relationship, (3) that he got her a State job and instructed her to lie about his role in doing so, and (4) that Clinton's claim that he was merely being polite in returning her uninvited calls is false.

Just a friendly acquaintance? The tapes reveal Clinton's fear that his relationships with Flowers and other women might be discovered. The tapes were recorded after Flowers says she ended the affair in December 1989 and reflect past, not current, intimacy. In this one, Flowers asks Clinton if he is going to seek the presidential nomination.

CLINTON. I want to. I wonder if I'm just going to be blown out of the water with this. I don't see how they can so far.

FLOWERS. I don't think they can.

CLINTON. If they don't have pictures, which they (indistinct) . . . and no one says anything, then they don't have anything, and arguably if someone says something, they don't have much.

FLOWERS. If they could blow you out of the water they would have already blown you . . .

CLINTON. How do you like holding my future in your hands? Do you like that?

FLOWERS. Yeah. (Laughs) No. Well, if it's positive I do, you know . . . . Oh, I'd love to see you be President. I think that would be wonderful . . . . It's like I told you before, whatever you need me to do, just let me know.

CLINTON. I will.

FLOWERS. Remember a long time ago when you called me and said that if you announced for, well, it was back the first time you were going to announce for—

CLINTON. Governor?

FLOWERS. No, president. And you said, "Gennifer, just wanted you to know that there might be some reporters or something out there." And you said, "Now you be sure to (indistinct—probably "tell the truth"). (Both laugh) Say there's nothing to the rumor." And I said, "Okay," I, well I shouldn't even say this to you, probably embarrass you. Do you remember what I said to you?

CLINTON. No. What did you say?

FLOWERS. I said, "Well at the time you (vulgarism for were good at oral sex)." (Laughs)

CLINTON. What?

FLOWERS. I said I had to tell them you (repeat of above), and you said, "Well, you can tell them that if I don't run for president." (Laughs)

CLINTON. (indistinct)

FLOWERS. And I thought, you know that's not real funny right now. But anyway, I try to find the humor in things.

CLINTON. Don't I know it. (indistinct words)

FLOWERS. But, anyway, I think we're okay for now.

CLINTON. We have to watch as we go along . . . . There's no negative to this except this . . . . I might lose the nomination to Bob Kerrey because he's got all the Gary Hart/Hollywood money and because he's single, looks like a movie star, won the Medal of Honor, and since he's single, nobody cares who he's screwing."

In another excerpt, Flowers says, "All right, darling, well you hang in there," and Clinton signs off with, "Goodbye, baby."

The cover-up—The tapes reveal the "hang tough" strategy.

CLINTON. I thought they'd look into it. But, you know I just think a crazy person like Larry Nichols is not enough to get a story on the television with names in it.

FLOWERS. Right. Well, he better not get on there and start naming names.

CLINTON. Well, that's what I mean. You know, if all the people who are named . . . deny it . . . . That's all. I expect them to come look into it and interview you and everything, but I just think that if everybody's on record denying it, you've got no problem.

FLOWERS. Well, why would they waste their money and time coming down here unless someone showed 'em some interest?

CLINTON. No, no. See, that's it. I mean they're gonna run this Larry Nichols thing down. They're gonna try to goad people up, you know, but if everybody kinda hangs tough, they're just not going to do anything. They can't run a story like this unless somebody said, "Yeah, I did it with him."

Lie about the job—Clinton intervened to get Flowers a state job. The job title and description had to be changed to do this, because a black woman on the staff, Charlette Perry, was supposed to get it. Perry filed a grievance and won, but the decision was overruled by Clinton appointee Donald Barnes. When Flowers worried that reporters might discover how she got the job, Clinton advised her to lie.

FLOWERS. The only thing that concerns me at this point is the state job.

CLINTON. Yeah, I never thought about that. But as long as you say you've been looking for one, you'd check on it. If they ever ask if you've talked to me about it, you can say no.

Who Called Whom—Apart from the content of the phone conversations, there is the question of why Clinton was having these conversations with Gennifer Flowers, sometimes late at night, even interrupting a meeting to take her call. He has said that he was merely being polite and returning her calls and that he always told his wife about them. That won't wash. This excerpt from a transcript of a long-distance call by Clinton shows the importance he attached to his talks with Flowers.

CLINTON. Hey. I tried to call you. I can't believe I got you.

FLOWERS. Well, when did you try to call me?

CLINTON. Late last night. Late . . . I started calling soon as I got home last night and I called for a couple of hours

FLOWERS. Well, sorry I missed you.

CLINTON. I was afraid I screwed up the number or something, and I kept calling.

Clinton said he was calling from Washington, D.C. She had called him to tell him that someone had entered her apartment and rifled through her belongings without taking anything. He asked, "You think they were trying to look for something on us?" Flowers replied, "I think so . . . why else?" Clinton asked if any personal records, like checkbooks or phone records were missing. Flowers says: "You usually call me, for that matter. And besides, who would know?

Another transcript shows Clinton interrupting a meeting to take a call from Flowers. Another, in which they discuss her job problems, he says, "Why don't you just call me tonight after 11, I'll try to get (state trooper) Carl Kirkland on the phone . . . . Call me at the mansion . . . . I'll be home."

WHAT YOU CAN DO

Clinton personifies the "recklessness and audacity that deserves to be weighed at the ballot box," but the so-called "respectable" media have suppressed the facts. Use this AIM Report to make the facts known. We are doubling our press run to provide you with as many free copies as you can use, as long as the supply lasts. Give them to everyone who may be helpful—editors, reporters, columnists, talk show hosts, club members, friends, political activists and voters. Use the coupon to order or call Debby Lambert on 202-371-6710.

Well, Mr. Speaker, there is one analysis. May I add my own observation. Not in this century—not even in the 1964 Goldwater/LBJ election campaign—has the Dominant Media Culture—the DMC—exercised such blatant, arrogant, fowl bias.

INTRODUCTION OF LEGISLATION REGARDING ELECTION YEAR POLITICAL GAMESMANSHIP

HON. JIM MOODY

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 12, 1992

Mr. MOODY. Mr. Speaker, today my colleague Tom Ridge and I are introducing legislation to prevent possible election year political gamesmanship from robbing my State of Wisconsin, and States throughout the northeast and Midwest, from their fair share of Federal moneys.

I refer to the Census Bureau's consideration of readjusting census figures for the allocation of Federal funds of 66 program. I believe this would be serious mistake.

Such an action would result in the loss of millions of urgently needed Federal dollars from the people of Wisconsin and from States throughout the Midwest and northeast. In fact, last year's General Accounting Office study indicated that these States would lose a minimum of $157 million in just the first year. Furthermore, the GAO study significantly underestimates the magnitude of the revenue loss because funding for the Medicaid Program, a major source of State revenue, increased over 250 percent since that study was done.

I also have suspicions as to why this adjustment is being sought at this time. My home State of Wisconsin has worked diligently with the Census Bureau to develop an accurate head count in the State. In fact, the Census Bureau has found this tabulation to be so accurate that it has decided not to adjust them for the purpose of congressional apportionment. The question therefore arises, "If the 1990 head count was accurate enough for congressional apportionment, then why isn't it good enough for the distribution of moneys to the States for Government programs?"

My fear is that election year politics might be an explanation for this inconsistency. The readjustment would funnel millions of dollars from northeastern and midwestern states to key electoral States such as California, Texas, and Florida. The people of Wisconsin and of America deserve more for their hard-earned Federal tax dollars than to have that money appropriated for cynical political gamesmanship.

Therefore, Mr. Speaker, I am introducing legislation to stop the political games. My bill would prohibit the Census Bureau from spending money for intercensal readjustment. It would also establish a better, fairer process for future readjustments.

I urge my colleagues join me in standing up for taxpayers across the country and to stop the political games.

INTERNATIONAL LAW AND THE CURRENT CONFLICT IN BOSNIA-HERZEGOVINA

HON. PHILIP M. CRANE
OF ILLINOIS
IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 12, 1992

Mr. CRANE. Mr. Speaker, the bloodshed and atrocities continue to escalate in the war-torn republic of Bosnia-Herzegovina. While there is little argument in the international community that the time has come for a quick and complete resolution of the conflict, there is little consensus on how peace should be accomplished. I offer to my colleagues the following proposal prepared by Dr. Edward McWhinney, a Canadian barrister and expert on constitutional and international law. Dr. McWhinney has been a visiting professor at major universities throughout the world, has authored a score of books, and is a member of the editorial advisory committee of the Encyclopedia Britannica. I encourage my colleagues to study this proposal, named after Princess Eva Maria, the widow of Prince Andrej of Yugoslavia, as I think you will find it worthy of consideration.

INTERNATIONAL LAW AND THE CURRENT CONFLICT IN BOSNIA-HERZEGOVINA

I am asked to advise as to the applicability of International Law rules and procedures for purposes of producing a peaceful resolution of current conflicts within Bosnia-Herzegovina.

While the historical roots of current ethnic problems within Bosnia-Herzegovina can be traced to political conflicts as far back as the Medieval era, for contemporary International Law purposes one may conveniently begin with the Treaty of San Stefano of March, 1878, ending the Russo-Turkish War; and with the Congress of Berlin of June-July 1878 and the resultant Treaty of Berlin. Under the latter, the Concert of Western and Central European powers, seeking to limit Imperial Russian influence, established, by their own consensus, a new political order for the Balkan peninsula which included recognition of the Independence of Serbia (Article 34), subject to conditions as to the maintenance of religious and related liberties for its inhabitants (Article 35). The Treaty of Berlin also provided for the occupation and administration of the provinces of Bosnia and Herzegovina by Austria-Hungary (Article 25). In 1908, seeking to counter Serbian pressures for a larger union of south Slavic states under its own authority, Austria-Hungary formally annexed Bosnia-Herzegovina; and early the following year, with Russia having yielded to German pressure, the annexation was recognized by all the European powers without a fresh Congress, in follow-up to the original Berlin Congress, being convoked.

The related Peace settlements that immediately followed on World War I—the master Treaty of Versailies of 1919, but also the supporting Treaties of St. Germain-en-Lays with Austria in 1919, and of Trianon with Hungary in 1920, and other treaties with the remaining defeated Central Powers, constituted—together with some special treaties with newly-established or enlarged states in Central and Eastern Europe—the International Law foundations of the post-World War 1 system of World public order and provided the legal base for its detailed territorial dispositions and allocations. Of those special treaties with the newly-established and enlarged states, the one with the new Serb-Croat-Slovene state, signed at St. Germain-en-Lays on 10 September 1919, (the same place and same date as the treaty with Austria, already referred to), is of special relevance in the present context. It will be referred to, hereafter, as the Serb-Croat-Slovene Treaty.

The Serb-Croat-Slovane Treaty was concluded between the so-called Principal Allied and Associated Powers, the main partners in the military victory of 1918—the United States, the British Empire, France, Italy and Japan on the one hand, and (according to the recital in the Preamble to the Treaty), "the Serb, Croat, and Slovene peoples of the former Austro-Hungerian Monarchy hav(ing) of their own free will determined to unite with Serbia in a permanent union for the purpose of forming a single sovereign Independent State." Within the British Empire delegation to the treaty negotiations, however, Canada, Australia, the Union of South Africa, New Zealand, and India, took part in pursuance of their then novel assertion of an International Law sovereignty in their own right, and they were signatories to the resultant treaty and must be considered, legally, as full parties to it and to the legal rights and duties flowing from it.

Where the treaties between the Principal Allied and Associated Powers and the former Central Powers, obtain territorial dispositions and indemnity and reparation stipulations necessarily adverse to those defeated Central Powers, the special treaties with the newly-established or enlarged states in Eastern and Central Europe—all of them beneficiaries, in measure, of the degree of deference variously accorded by the victor states to President Wilson's Fourteen Prints in general and the principle of self-determination in particular,—have the two principal objectives. First, the extra legitimation, in International Law terms, of those "succession" states in their acquisition of portions of the old German and Austro-Hungarian Empires' erstwhile territorial domains in Europe, or (in the case of revived or new states like Poland and Czechoslovakia) of their acquisition of sovereignty and independence in their own right; and, second, the establishment of certain international law-based, guarantees for the protection of the rights, variously, to citizenship, language, education, and religion, of the new ethno-cultural "national minorities" acquired with the transfer of the new territories. Apart from the International "recognition" fact referred to, the special treaties with the Eastern and Central European states—Poland, Czechoslovakia, Roumania, and the Serb-Croat Slovene state—are "minority" treaties, in the case of the new Serb-Croat-Slovene state, they discharge from and replace similar obligations undertaken by the Kingdom of Serbia under Article 35 of the Treaty of Berlin of 1878.

The special treaties with the Eastern and Central European states were intended to have legal "teeth" in them. In essentially identical language, the treaties declared that their minority rights—"stipulations—so far as they affect persons belonging to racial, religious or linguistic minorities, constitute obligations of International concern and shall be placed under the guarantee of the League of Nations". (See Article 11 of the Serb-Croat-Slovene Treaty.) Further, in terms of the same Article 11 of the Serb-Croat-Slovene Treaty—"any difference of opinion as to questions of law or fact" arising from the treaty, between the Serb-Croat Slovene state and any one of the Principal allied and Associated Powers (signatories to the treaty) or any other member of the League of Nations Council, was to be held as a "dispute of an international character under Article 14 of the Covenant of the League of Nations (the Article establishing the Permanent Court of International Justice to which the present International Court of Justice is the legal successor). Under the same Article 11, the Serb-Croat-Slovene state consented, in advance, to the submission of any such dispute to the Court, on the demand of the other party, with the decision of the Court to be final. Though there is no record of attempt to resort to the Court in regard to the minority rights protection offered by the Serb-Croat-Slovene Treaty, a small number of disputes were, in fact, brought before the Court under other, cognate treaties concluded with the Eastern or Central European states, either as full cases (three, of which two were withdrawn) or as references for Advisory Opinion.[1] The importance of Article II of the Serb-Croat-Slovene Treaty is that, to the extent that the treaty is still in force, it provides a legally non-impugnable source for the assertion of the Compulsory Jurisdiction of the International Court, under Article 36(I) of the Court Statute, at the instance of any one of the original parties to the treaty at least (and, probably also, of any other state being a member of the Security Council of the United Nations, as legal successor to the Council of the League of Nations), and this without any necessity of the consent of the respondent state.

The jurisdictional issue—the finding of an international forum with the necessary problem-solving competence and capacity to be able to act in the matter—becomes important because of a certain confusion as to legal roles and missions manifest in the United Nations and its main organs in the present period of political transition and change that characteristics the post-Cold War era. The United Nations Security Council, acting pursuant to Chapter VI or (as successive Resolutions like 757 and 758 affirm) Chapter VII, has given a (readily understandable) emphasis to peace-keeping in its classical, limited conception, as first sponsored by Prime Minister Lester Pearson, of interposing a United Nations presence between conflicting parties. It has, manifestly, failed in its primary mission to restore peace in Bosnia-Herzegovina, because it has failed at the same time to address itself to the underlying historical forces and the differing cultural exposures, over centuries of disparate development, from which contemporary ethno-culturally based conflicts stem. By the same token, the Conference on Security and Cooperation in Europe (CSCE), as a latter-day institution, has sometimes seemed to mirror the late 19th century intra-European big power rivalries from which the Treaty of Berlin settlements of 1878 stemmed and which were at the root of not many of the subsequent territorially-based conflicts, whether in 1908, 1912–13, 1914–18, or thereafter. It may be suggested that a peace settlement that is to be more than a mere temporary cease-fire must sensibly offer some-

[1] G. Erier, "Minderheitanrecht", in "Wörterbuch des Völkerrechts' (1-1.-J. Schlochauer, ed.), vol. 2 (1961), p. 531, pp. 532-31 G. Erler, "Minderheitsachulen in Oberachlesien-Fall", Ibid., pp. 536-7, T. Modern, The International Protection of National Minorities in Europe (1969), p. 49 et seq.; Julius Stone, "International Guarantees of Minority Rights (1932).

thing of a privilege and orderly process, for the future, of substantive change, including territorial readjustments, where necessary, that may both depart from the rather arbitrary, European big power-imposed settlement of 1878 that itself so largely ignored claims to self-determination of peoples, and also take appropriate account of supervening equities or acquired rights.

The present agonizing situation in Bosnia-Herzegovina and the resultant practical political-military stalemate seem ripe for application of well-tested, classical International Law third party settlement; and the legal machinery, processes and institutions appropriate thereto are already available under the 1919 Serb-Croat-Slovene Treaty. Any responsible third party, signatory to the treaty—the United States, Great Britain, France, Italy, Japan, even Canada or India—could properly call on the parties to agree to submit the Bosnia-Herzegovina dispute to binding international arbitration, either within the parameter of the Permanent Court of Arbitration in The Hague or through creation of a special, ad hoc tribunal. In either case, though the consent of the rival parties would be needed, they would normally have the guarantee of each being able to name an equal number of arbitrators, with the presiding officer, as the neutral member, being chosen by the parties together or by some independent party like the President of the International Court, (as with the naming of the neutral members of the Iran-U.S. Mixed Claims Tribunal). The advantage of Arbitration, as a third party-based, disputes-settlement mechanism is that it is expressly opened to the producing of an equitable solution of the conflicting interests involved, as distinct from any more restatement of the pre-existing law or status quo ante.

International adjudication, through the International Court, is also available and, as already indicated, its Compulsory Jurisdiction can be successfully invoked unilaterally, under the 1919 Serb-Croat-Slovene Treaty, by any one of the original signatories,—if necessary without the consent of the respondent state. While the distinction between Law strioto sensu, and some more flexible, equitable approach has traditionally been maintained in the "classical" era of the old Permanent Court and its successor International Court of Justice, the International Court in the modern era shows an increasing interest and concern for equitable, as opposed to strict-and-literal interpretations, the ruling in the Burkina Faso/Mali Frontier Dispute in 1986[2] being a particularly inspired and imaginative example of judicial attempts to redress original, essentially arbitrary and capricious, European-imposed territorial settlements from the Colonialist period. The fund recently created by the Secretary-General of the United Nations to assist less affluent states in meeting the burden of financing their own litigation before the International Court would be available in a case such as this.

It is to be assumed that the U.N. Security Council legal authority, now in place, could be used to secure and maintain the peace in Bosnia-Herzegovina, pending an independent, third party-based dispute-settlement of the nature adverted to in paragraphs 7 and 8, supra.

It lies beyond the scope of this Opinion to canvass in extenso the substantive legal issues,—involving the critical re-examination of old legal dispositions of a territorial nature from 1878 or even earlier,—that must be at the core of any substantive settlement of the Bosnia-Herzegovina conflict that can be of a long-range, lasting nature. The following issues may, however, be cited as appropriate for examination in that context.

In spite of the reservations seemingly expressed in the Preamble, for example, to U.N. Security Council Resolution 757 of 30 May 1992, there is little doubt that the Federal Republic of Yugoslavia is the legal successor to the former Socialist Federal Republic of Yugoslavia and, as such, an appropriate respondent in any legal action before the International Court under Article 11 of the Serb-Croat-Slovene Treaty.

For purposes of the present-day verification or determination of the frontiers of the Federal Republic of Yugoslavia, in contradistinction to other, additional succession states that may have emerged, the authoritative legal starting point is the uti possidetis doctrine, which, as the judgment of the International Court, in its Special Chamber in the Burkina Faso/Mali Frontier Dispute,[3] recognized, is no longer a rule peculiar to, and limited to, the Latin American seccession states that emerged from the overthrow of the Spanish and Portuguese Empires, but a principle applicable more generally to boundary inheritances in post-Colonialist situations.

In accord with Latin American and post-Colonialist African and Asian practice, the point in time for establishing territorial frontiers according to the uti possidetis doctrine is the termination of imperial, foreign rule—for present purposes, the abandonment of Austro-Hungarian sovereignty and the establishment of the Kingdom of the Serbs, Croats, and Slovenes in 1919. This is without prejudice to the acceptance by any third-party arbitral or judicial tribunal or other dispute-settlement institution of notions of acquired rights created by long-time peaceful occupation or residence in the territories concerned by different ethno-cultural communities; nor to its power to recommend territorial modifications or exchanges, or voluntary population transfers, to take account of such facts.

Finally, the principle of self-determination of peoples, in its contemporary form, does not require for its realization the necessary break-up of an existing, multi-national state; but may equally be achieved by grant of autonomy and self-government within a federal or similar plural-constitutional state, or by sovereignty and associate state status within some larger Commonwealth or association of independent states.[4]

[2] "Case Concerning the Frontier Dispute (Burkina Faso/Republic of Mali)", I.C.J. reports 1986, p. 554.

[3] I.C.J. Reports 1986, p. 554. On the uti possidetis doctrine generally, see F.R. Moreno, "El problems de las fronteras" (1927), E. Ayala, L'uti possidetis et la règiement des questions territoriales", "Revue de Droit International," vol. 8, (1921), p. 441.

[4] On the Self-Determination principle, see generally G. Decker, "Das Selbstbestimmungarecht der Nationen" (1955); F. Ermacora, "Die Selbstbestimmungsic, ihre Entwicklung von 1918–1974" (1977); S. Calogarpoulos-Stratis, "Le droit des peoples à disposer d'eux-memes" (1973).

HONORING UAW, LOCAL 845 AND FORD MOTOR CO. ON 25TH ANNIVERSARY OF SHELDON ROAD PLANT

HON. WILLIAM D. FORD

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 12, 1992

Mr. FORD of Michigan. Mr. Speaker, the Michigan congressional district I have represented here in Washington over the past 27 years boasts of one of the highest concentrations of autoworkers in the Nation. This is a source of great pride to me. The American auto industry is literally the fuel that runs the engine of this great Nation: one in seven jobs in the United States is tied to the auto industry; Ford, General Motors, and Chrysler have plants and facilities in 49 States; two in five machine tools and one in five semiconductors sold in the United States go to the auto industry.

Given the auto industry's contributions to our country, I am honored to pay tribute to members of the UAW, Local 845, and the Ford Motor Co. as they celebrate the 25th anniversary of the Sheldon Road plant on September 19, 1992.

For 25 years, UAW workers have turned out quality products for the Ford Motor Co. at the Sheldon Road plant. Ford began producing heaters for one vehicle line in 1955 at the Ypsilanti plant and progressed to become the sole source of heaters for all passenger cars and trucks. In 1965, Ford began producing air-conditioner assemblies for one vehicle line only, until 1969, when the Sheldon plant became the sole source for the company's air-conditioning units.

Today, a total of 272 end items are assembled at the Sheldon Road facility for distribution to Ford and Lincoln/Mercury assembly plants. At the end of a typical production day, the employees at the Sheldon Road plant have produced an average 24,000 air-conditioners and heaters; as well as 17,400 controls. The Sheldon Road plant ships over 250 railroad cars per month of finished products to the vehicle assembly plants. Products are also shipped by Ford's own truck fleet and other carriers.

Mr. Speaker, I am extremely proud of the men and women who have kept the Sheldon Road plant up and running for 25 years. They are a credit to the Ford Motor Co. and the American work ethic. It is my hope that they continue to serve the State of Michigan and the American auto industry for many years to come.

CONDEMNING WAR CRIMES IN THE TERRITORY OF THE FORMER YUGOSLAVIA

HON. NITA M. LOWEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, August 11, 1992

Mrs. LOWEY of New York. Mr. Speaker, I rise in support of this resolution which forcefully condemns the violations of international

law which are occurring within the territory of the former Yugoslavia.

The United Nations genocide convention outlaws all acts such as murder and torture that are carried out with a specific intent to destroy, in whole or in substantial part, a national, ethnic, racial, or religious group. The fourth Geneva Convention prohibits the willful killing, torture, or kidnapping of innocent civilians in times of conflict or occupation. The Nuremburg Charter criminalizes war crimes including the murder of prisoners of war and innocent hostages or other inhumane acts committed against any civilian population.

The reports out of Yugoslavia are simply too horrible to ignore. Pictures of starving men and women who have been subjected to cruel torture, children being targeted by snipers, reports of "ethnic cleansing." No matter which side in the civil war commits these atrocities, there can be no doubt that they are in violation of international humanitarian law.

We must make certain that the individuals responsible for committing these crimes are aware that the world will hold them responsible for their acts. This resolution will do so by putting this House on record that those who violate international law will not be forgiven or forgotten.

It has been said many times that those who cannot remember history are condemned to repeat it. Let us show the world that we do remember history, and we will not allow war crimes to go unnoticed and unpunished.

INTRODUCTION OF LEGISLATION TO PROTECT ANTIETAM NATIONAL BATTLEFIELD

HON. BEVERLY B. BYRON

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 12, 1992

Mrs. BYRON. Mr. Speaker, Today I rise to introduce legislation designed to protect and enhance a national treasure located within my Congressional District, Antietam National Battlefield. 130 years ago, two massive American armies converged on the small Maryland village of Sharpsburg and fought a savage battle that produced more than 23,000 casualties in a single day; September 7, 1862.

Over the last three years, the National Park Service has been engaged in developing a plan that will guide the management of the park for the next 20 years. That general management plan was approved recently. Most of the plan does not require congressional approval for enactment. However, one element of the plan does, and that element consists of a boundary expansion of 95 acres.

My bill is very simple. It includes only 2 provisions. It expands the park boundary by 95 acres to include property purchased by the conservation fund and intended for preservation. And, it requires that the property in question be donated to the National Park Service.

This property is considered important by the park service for a number of reasons. Significant troop movements and battle lines were established on these tracts. These troop movements had a major impact on the fighting in the West Woods and Bloody Lane. Inclusion of this property will permit interpretation by the National Park Service.

I would be remiss if I did not mention that a number of local landowners are nervous about this expansion. Some of them will be brought closer to the boundaries of the park. I understand their concerns and have met with various groups of these citizens on several occasions. In many instances, these landowners would prefer local protection instead of Federal protection.

I understand these concerns but I would like to quote a columnist George Will in a piece that appeared in Newsweek, on July 18, 1988, specifically addressing the issue of preserving Antietam, he wrote:

"Reasonable people can differ about what acquisitions and restrictions are needed near battlefields. But two principles are clear. The protection of places that are part of our national patrimony is the responsibility of national, not local, government. This is a conservative era, or so 'tis said. Conservatives like economic growth and local government; they dislike central government, government spending and regulation. But unless the name by which they are known is meaningless, conservatives should be leading the charge on behalf of the conservation of battlefields.

In closing, I would note that no private homes will be added to the battlefield and that there will be no costs to the Federal Taxpayer.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. AUTHORIZATION FOR ACCEPTANCE OF ADDITIONAL LANDS.

(a) IN GENERAL.—Section 39 of Public Law 95-625 (92 Stat. 3488; 16 U.S.C. 430oo note) as amended by section 1 of Public Law 100-528 (102 Stat. 2649; 16 U.S.C. 430oo note) is amended—

(1) in subsection (a), by striking the period at the end and adding at the end ", as well as to acquire, by donation only, the additional lands currently owned by the Conservation Funds described in Liber 901, Folio 594, and Liber 900, Folio 122, of the Land Records of Washington County, Maryland."; and

(2) in subsection (b), by inserting "as well as the area described in the Land Records of Washington County, Maryland, referred to in subsection (a) of this section," after "referenced in subsection (a) of this section,".

UNITED STATES—CHILE FREE-TRADE AGREEMENT

HON. BILL RICHARDSON

OF NEW MEXICO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 12, 1992

Mr. RICHARDSON. Mr. Speaker, I would like to insert the following article written by the Chilean Ambassador to the United States, Mr. Patricio Silva.

This article makes a strong and convincing case for a United States-Chile Free-Trade Agreement. As many of my colleagues know, I am a strong proponent of greater trade and investment liberalization in the Western Hemisphere. It is my view that Chile stands prepared to play a leading role in the proposed "Enterprise for the Americas" initiative.

I encourage my colleagues in the House to give serious attention to the compelling case presented by Ambassador Patricio Silva.

A US-CHILE FREE-TRADE AGREEMENT

(By Ambassador Patricio Silva)

President Bush has recently committed to start bilateral negotiations to reach a free trade agreement with Chile as soon as the North American Free Trade Agreement has been concluded.

This public commitment has received strong endorsement by prominent Members of Congress, the US business community, academic and intellectual leaders, and, most significantly, by relevant groups of independent US citizens.

But such a commitment raises numerous questions on both sides of the pending negotiations:

Why does a country with an unemployment rate of only 4.5 percent and a trade surplus with Japan equivalent to 7 percent of its total exports desire a free trade agreement with the United States?

Why does a country which already enjoys possibly the world's highest rate of foreign investment in relation to its total production want a free trade agreement with the United States?

Why does a country which has attained a yearly average rate of growth over 6.1 percent for the past five years—and will attain 7 percent this year— want a free trade agreement with the United States?

On the other hand, what importance can the United States attach to a free trade agreement with a country with only 13 million inhabitants, located at the far end of the hemisphere?

It is clear that while these questions are economic, the answers are fraught with political implications, both domestic and international.

During a long period of time, the history of relations between the United States and Latin America involved dreams of cooperation and common interests. That was followed by periods in which the two sides attempted to preach standards of behavior, action programs, lessons in good conduct, and the means for attaining prosperity and the common good.

That discourse, consisting of ideological prescriptions and economic doctrine, reflected enormous differences in the perception of the divergent situations existing on both sides.

Increasingly, in country after country, as the result of successes that certain experiments have demonstrated, interests and principles common to he US and Latin America have begun to coalesce in our hemisphere.

Growing sectors in an important majority of the countries in this hemisphere have been convinced that democracy develops and grown stronger with economic freedom and that a free market system is the only efficient mechanism for attaining true prosperity.

But democracy and the market economy must continue to prove themselves efficient in application. And only increased collective well being, and sustained hopes for a better future, will provide the support that political democracy and economic freedom must have to survive and prosper.

In this new scenario, hemispheric trade is playing a determining role. Free trade through-out the Americas as envisioned in the Enterprise for the Americas Initiative, although a long-term objective, will secure the opening of foreign markets for the US.

This in turn will create more wealth and well being for the citizens of the hemisphere in a natural upward convergence of prosperity.

For Chile, the benefits of a bilateral free trade agreement are clear.

Because we are bullish on the American economy, we are convinced a free trade agreement with the United States will motivate Chilean workers and entrepreneurs, who will recognize the FTA as an opening door, a beckoning market, and a stimulating challenge.

A free trade agreement with Chile offers the United States a strategic opportunity to work for the expansion of its sphere of economic and political interests to cover the entire Western Hemisphere.

Chile is the best candidate to conclude a bilateral agreement, promptly. Chile now enjoys political stability and economic progress. They are the outcome of a lengthy and costly process.

In March 1990, a freely elected democratic government came to power in Chile. The transition back to democracy has been extraordinarily successful. Chile's open market economy now has excellent prospects for growth within a context of political and social stability.

President Patrico Aylwin's government is firmly committed to a free market economy and social justice, with minimal state intervention. An effort is being made to improve the living standards of Chile's poorest groups.

The people of Chile are today firmly united behind the Chilean model of development: political and economic freedom in a pluralistic democracy.

A free trade agreement between the United States and Chile will be simple and fast to negotiate. The complexities found in negotiating NAFTA are almost non-existent in the case of Chile. Recent reports prepared by the U.S. International Trade Commission and the General Accounting Office clearly verify that reality.

The U.S.-Chile trade and investment relationships strongly complement each other. In the area of trade, Chile is a successful exporter to the U.S. market and the two economies complement each other both seasonally and by sector.

Seasonally, Chile's fresh agricultural products arrive in the U.S. during the winter and early spring. By sector, Chile is not a supplier of steel, automobiles, sugar, dairy, or other products that would compete with sensitive U.S. industries. Thus, no job displacement in the U.S. should be expected from such a trade agreement.

To the contrary, sales of perishable Chilean products in the United States demand the intensive utilization of domestic labor at ports of entry and distribution and selling points.

Relations between the AFL-CIO and Chilean organized labor are on excellent footing. Since taking office, President Aylwin's government has increased workers' rights while promoting cooperation between labor and management.

Labor legislation already approved by Chile's Congress improves workers' rights in the critical areas of collective bargaining, freedom to strike, job security, employment training, and minimum wages.

Accordingly, the AFL-CIO publicly stated its opinion in June 1990 that "the legislation introduced by the Aylwin government includes significant revision of the labor code which would give workers more rights."

In the area of US exports to Chile, the United States private sector will benefit in a number of ways. First, it will consolidate its access to, and improve its competitive position within, its fourth largest and most rapidly growing Latin American export market.

Today, the US share of Chilean imports of industrial products and capital goods is comparable with that of Japan and the EEC combined. Capital goods, heavy machinery, telecommunications and computer equipment, engineering services, and chemical products are particularly important. US exports to Chile have doubled over the past five years.

Second, the US private sector will be able to expand its portfolio investments in Chile as well as its direct investments in mining, banking, insurance, forestry, fishing, computer service, and engineering consulting industries in Chile.

United States business will also be able to compete more effectively in areas such as telecommunications, public works, and government procurement. US investments in Chile present a high correlation with the purchase of capital equipment manufactured in the United States.

A US-Chile Free Trade Agreement will send the correct signal to the rest of the Western Hemisphere. It will show that cooperation between nations need not depend entirely on the size of their territories or their economies.

TRIBUTE TO GIICHI BYRON HONDA

HON. DON EDWARDS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 12, 1992

Mr. EDWARDS of California. Mr. Speaker, I want to share with my colleagues the story of a remarkable life—that of Giichi Byron Honda, who passed away on July 31 at the age of 78.

The San Jose Mercury News in its obituary for Mr. Honda described him as "a truck driver, flower cutter, mortician, teacher, sharecropper, amateur musician, grocer, missionary, postal clerk, husband and father." He was also an inventor, whose improvements to a post office canceling machine were adopted and judged by postal officials at the time to save over $50,000 a year for the Postal Service. For this innovation, he was awarded the princely sum of $935 as a bonus. He took his coworkers out with the bounty.

Byron Honda was a California native. Yet when the relocation program during World War II was instituted, he and his family—along with hundreds of other Japanese-American families—were sent to the Amache internment camp in Colorado, deprived of their personal freedom because of their ancestry. In fact, Mr. Honda was one of those forced to build the very facilities in which he was to be interned. As he noted in writing about his unhappy period in our country's history:

> I was one of the advance contingents to arrive. We built the barracks. We leveled the sand and laid bricks. We put up the fence posts and strung the barbed wires around the camp. The watch towers trained their machine guns inward, and if anyone approached the fence, the sentry would aim his rifle at that person.

During his time at Amache, Mr. Honda was assigned to serve as a language instructor for naval intelligence officers, working first in Boulder, Colorado and later in Chicago.

Some years after the war, the Honda family returned to Santa Clara County, where among the family's many contributions to our community has been the service of Byron's son Mike as a distinguished member of the Santa Clara County Board of Supervisors.

Byron Honda lived a rich and interesting life. He will be much missed by the many friends of the Honda family.

I offer my condolences to his wife, Fusako, and to all the family.

TRIBUTE TO THE CARBORUNDUM CO.

HON. TIMOTHY J. ROEMER

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 12, 1992

Mr. ROEMER. Mr. Speaker, today I rise to pay tribute to the Carborundum Co. and its leadership in the worldwide advancement of technology. Last year, Carborundum celebrated 100 years of contributing to American economic prosperity—an achievement unsurpassed by even our largest corporate institutions. Through the development of man-made abrasives, heat-resistant materials, nonmetallic electric heating, and semiconductor technology, Carborundum has introduced a long list of products that continue to drive American ingenuity.

The Fiber Division of the Carborundum Co. is a perfect example of product excellence—a dedicated group of professionals who are committed to quality in ceramic fiber insulation products. The division stands on the cutting edge of heat-resistant technology, making possible a variety of new industrial processes. Because of ceramic fiber's outstanding insulating properties, light weight, and easy fabrication, it has become a vital element to many industries, including those in the construction, aerospace, and defense sectors.

In 1966, Carborundum's Fiber Division opened a new plant in New Carlisle, IN, and I am proud that this facility now produces indispensable products in the Third District of Indiana. The New Carlisle plant brings the skills and expertise of 123 workers to the community, over half of whom hold at least 10 years of company service. Four production lines are supplemented by a well-equipped testing laboratory that holds products to the highest standards of quality and safety. Carborundum's role as a reliable and steady employer within New Carlisle is appreciated by the community and its workers.

Mr. Speaker, it is an honor for me to share the accomplishments of the New Carlisle plant with my colleagues. Because of its ingenuity and innovation, the company exemplifies the future of American industry and destroys the myth that America is forfeiting its role as the world economic leader. The Carborundum Co. presents us with a great example of diligence, excellence, and leadership, and I salute both its management and dedicated Hoosier work force.

HATS OFF TO KADISH MILLET

HON. CHARLES E. SCHUMER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 12, 1992

Mr. SCHUMER. Mr. Speaker, I would like to pay tribute today to Mr. Kadish Millet of my district for his tireless dedication to and enthusiasm for the Brooklyn community.

A language teacher by trade, Mr. Millet is also a composer and songwriter, and has received countless awards for his musical efforts. By composing the official songs for Brooklyn College, New York University, and several local elementary and high schools, Mr. Millet has demonstrated his excellence in music and his commitment to the schools of Brooklyn.

Most particularly, I would like to mention Mr. Millet's "Hats off to Brooklyn," whose lively, patriotic tone reflects his own spirit and energy. I know I am not the only Brooklynite who shares Mr. Millet's desire to make this song Brooklyn's theme song, nor the only one who is inspired by Mr. Millet's lyrics. Hats off to Kadish Millet.

IRVING CONRAD: A GUIDING FORCE AT THE WILLIE ROSS SCHOOL FOR THE DEAF

HON. RICHARD E. NEAL

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 12, 1992

Mr. NEAL of Massachusetts. Mr. Speaker, I take this opportunity to pay tribute to a man who has given much of his time over the past 7 years to a fine organization in my district. The man is Irving Conrad and the organization is the Willie Ross School for the Deaf in Longmeadow. Irving Conrad has served as chairman of the board of trustees at the Willie Ross School during the past 7 years, a period of great growth and expansion at this vital school.

Mr. Speaker, the day has thankfully past when the physically handicapped are set aside from mainstream society. Today, we have handicapped people working in virtually every type of business or organization. In computers and many other fields, the deaf have made great gains in employment. These gains have come mostly through better education for deaf people. The Willie Ross School for the Deaf has been a leader in innovative and progressive education programs designed to help the deaf thrive in modern society. Irving Conrad has been the driving force behind improvement and upgrading the campus on Norway Street. Through his contribution of time and expertise, he guided the renovations of the main school building and the annex buildings. The Willie Ross School has, under his guiding hand, taken a place among the finest schools for the deaf in America. Mr. Conrad was instrumental in the hiring of the school's latest executive director. The students and staff greatly appreciate the huge commitment he has made to the school over the years and are thankful that Irving Conrad will continue on as a trustee.

Irv Conrad is stepping down as chairman of the board at the Willie Ross School and will be greatly missed. I take this opportunity to recognize his good work and wish him, his wife Marsha, and family the best of everything in the future.

SHEAR MADNESS CELEBRATES 5-YEAR ANNIVERSARY

HON. MICHAEL R. McNULTY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 12, 1992

Mr. McNULTY. Mr. Speaker, today we observe a significant milestone in the annals of theater in our Nations's Capital. Originally Scheduled for a 12-week run, August 12, 1992 marks the 5-year anniversary at the John F. Kennedy Center for the Performing Arts for the Play, Shear Madness.

From a modest start at a dinner theater in Lake George, NY, Shear Madness is now recognized by the Guinness Book of Records as the longest running nonmusical, playing continuously for over 12 years. With considerable international appeal, this play is distinctive in its utilization of current events, frequently containing local references.

The producers of Shear Madness, Marilyn Abrams of Albany, NY, and Bruce Jordan of Schenectady, NY, both reside in my congressional district. Much of the success of their production can be attributed to their significant innovations in audience participation. In addition, basing their production company, Cranberry Productions in Albany—outside of the customary venues for the theater—has contributed to an increased awareness of and support for regional theater.

Mr. Speaker, Marilyn and Bruce have been an inspiration for many others in regional theater. I invite my colleagues to join me in wishing them continued success in this and all their future endeavors.

SUPPORT FOR NUTRITION SERVICES FOR THE ELDERLY

HON. EDWARD R. ROYBAL

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 12, 1992

Mr. ROYBAL. Mr. Speaker, on July 30, 1992 I held a hearing before the Select Committee on Aging on Adequate Nutrition: The Difference Between Sickness and Health for the Elderly. Now, I am even more convinced that nutrition services play a vital role in maintaining the health, independence and quality of life of older Americans. Nutrition services must become an integral part of the health care services provided to not only the elderly, but every citizen of the United States.

The benefits of proper nutrition have been shown time and time again. Nutrition screening, assessment and counseling save money. When an older person is malnourished, he/she is at-risk for disease and other health problems. Eighty-five percent of all older persons have one or more chronic diseases, such as diabetes, osteoporosis, atherosclerosis, hypertension and cancer. Nutrition is linked to prevention and treatment of these diseases.

Nutrition is a daily issue for the elderly especially since every day 5,000 people turn 65. Studies have shown that over 50 percent of the elderly living independently in their homes have nutritional deficiencies. Elderly patients with chronic malnutrition often die of infections, most commonly pneumonia and urinary sepsis. On the other hand, adequately nourished patients have decreased morbidity/mortality and fewer secondary medical complications; wounds heal faster; fewer infections occur; and hospitalizations are shorter.

I am distressed about the state of reimbursement for nutrition services through Medicare and Medicaid. It is very limited and sporadic. Many older Americans do not get nutrition services because they cannot pay for them. Many times Medicare does not cover nutrition services in spite of a physician order and the likelihood of a reoccurring disease.

We must change the system so that nutrition services are specifically reimbursable and not just included in administrative funds. Nutrition services must be made available to elderly Americans in preventive, acute, long-term care and home health settings. Nutrition screening, to identify those at-risk can be a cost-effective prevention measure. Nutrition services are often a substitute service, taking the place of more costly services or less effective care. Nutritional care should be considered specialized care and should be reimbursed just as respiratory, occupational and physical therapies are.

Reimbursement for nutrition services provided by qualified dietitians/nutritionists by Medicare and Medicaid would permit addressing nutritional problems early enough to avoid hospitalization or institutionalization. Our elderly population has the right to remain independent and healthy as long as they can.

MINIMUM WAGE AMENDMENTS OF 1992

HON. MARTIN OLAV SABO

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 12, 1992

Mr. SABO. Mr. Speaker, I believe that an increase in the minimum wage is needed to restore equality to salaries for millions of Americans. For that reason, I am introducing the Minimum Wage Amendments of 1992. This legislation will increase the Federal minimum wage to $6.50 an hour and provide a living wage for individuals working at the minimum wage.

One of the most disturbing trends of the past decade has been the increasing polarization of income in this country. The rich have gotten richer and the poor poorer. In fact, the gap between rich and poor families is now larger than at any time in the 40 years since the Government began compiling those statistics.

Put another way, average income of the poorest fifth of the population has fallen from 93 percent of the poverty line in 1973 to 83 percent in 1987. The next poorest fifth has an

average income of twice the poverty line. On the other end of the spectrum, the richest fifth has an income that is almost nine times higher than the poverty line. Unemployment and the recession are part of the problem. But low wages are another significant factor.

There are also more single-parent, female-headed households. And wages for low-income and young workers have been stagnant. Poverty is especially damaging because it hits children so hard. Today, an alarming one in five children live in poor families. Poverty and the problems associated with it—malnutrition, inadequate health care, disadvantages at school, and crime—impair a child's ability to perform later in life. They erect barriers that make it tough for children to ever achieve.

In today's economy, minimum wage workers are often unable to support themselves for one simple reason—the minimum wage has not kept up with the cost of living. In the 1960's and 1970's for example, a full-time year-around worker making the minimum wage earned enough to keep a family of three above the poverty line. By 1989, the same worker fell 29 percent below the poverty line. To help fill the gaps, they are often forced to seek taxpayer financed Government programs such as food stamps, housing subsidies, and medical assistance.

Congress has tried to help. In June 1989, Congress passed legislation increasing the minimum wage. Under the legislation, The 1989 Fair Labor Standard Act, the minimum wage was raised from $3.35 to $4.25 per hour.

Still, the minimum wage has not kept pace with the rising cost of living. In fact, the current $4.25 per hour falls $1.45 short of the real value of the minimum wage in 1978. This failure of our society to increase the minimum wage to a level which provides a living puts enormous pressure on social programs. In my judgement, all full-time workers should make enough money to live off the economy.

From the time of President Roosevelt, a fair minimum wage helped ensure a responsible relationship between workers and management. Today, a fair minimum wage is critical to millions of working Americans. More than two-thirds of minimum wage workers are adults and 7 out of 10 live below the poverty line.

When working Americans are unable to support themselves and their families, they are left scrambling to pay their bills and put food on their tables. Today's minimum wage is too much minimum and not enough wage. We can not be content with an economy that helps those at the top of the economic ladder climb further up while those at the bottom slip further down.

Mr. Speaker and Members of the House, I hope you will join me in supporting an increase in the minimum wage.

KOSOVO AND MACEDONIA

HON. STENY H. HOYER

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 12, 1992

Mr. HOYER. Mr. Speaker, yesterday the House passed a resolution which calls for decisive action in regard to Bosnia-Hercegovina. Given the horrible situation we confront in that country, much of our recent attention has rightly focused on it in recent months. However, our concern for the situation in Bosnia-Hercegovina includes a broader fear that the fighting might spread, leading not only to additional civilian killings, not only there, but elsewhere.

The greatest risk for this is Kosovo, where the ethnic Albanian population has struggled under the severe repression of Serbian authorities who have denied the province its previous autonomy. Gross violations of basic human rights and fundamental freedoms are frequent occurrences. Thousands of Albanians have been fired from their jobs, and tensions were further encouraged by a Serbian-oriented curriculum imposed on Kosovo's schools. Ethnic Albanian activists are frequently harassed.

Later this month, London will host a new, expanded international conference of Yugoslavia. If this conference is to succeed in finding a comprehensive solution to the crises at the root of the conflict in the former Yugoslavia, it must address Kosovo directly, and, working with ethnic Albanian leaders there, seek a peaceful and democratic solution to this stalemate.

The international community must also come to grips with the international recognition of Macedonia, which has been repeatedly and effectively blocked, adding to the political instability in the region. The history of Macedonia is of course complex and controversial, but a few facts about the current situation stand on their own. First, Macedonia, much like Bosnia-Hercegovina, did not seek the breakup of Yugoslavia; it is simply trying to cope with that. And, as the recent collapse of the government there shows, continued nonrecognition of Macedonia can encourage extreme nationalist elements at the expense of the political moderates currently in control who have, in fact, made it clear they have no territorial ambitions. Nonrecognition can potentially also lead to tensions with the large Albanian population in the republic. Finally, Macedonia did, in fact, meet the EC-established criteria for recognition, including those regarding human rights, and in that respect simply deserves recognition.

The London conference must also deal with this issue in a direct and responsible way, and, as long as President Bush is moving on developing bilateral diplomatic relations with the three former Yugoslav republics we have recognized, he should do so with Macedonia as well. Macedonia should also be permitted to join the CSCE, giving it a role in European diplomacy and, at the same time, encouraging democratic development in that country. It only makes sense.

While the killing in Bosnia-Hercegovina remains our chief concern, we cannot wait for the violence to spread to Kosovo or Macedonia before we give them the attention they deserve. There is already too much instability in the Balkans, where conflict seems to travel with incredible ease. If Kosovo or Macedonia were to become the scenes for fighting, the direct involvement of neighboring countries becomes increasingly likely. While the decision by President Bush to deploy monitors in these and other places as a preemptive move is one that I have welcomed, they can only do so much good as long as important political and human rights questions remain unresolved.

THE 25TH ANNIVERSARY OF PROJECT PPEP PROVIDING HELP FOR RURAL POOR IN THE SOUTHWEST

HON. JIM KOLBE

OF ARIZONA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 12, 1992

Mr. KOLBE. Mr. Speaker, by now we all are aware that many regions of the United States have suffered serious declines in jobs in the last decade. Particularly hard hit are areas dependent on agriculture, mining, or traditional manufacturing. Many of these declines are not short-term, cyclical or recession-related declines, but are due to fundamental structural shifts in the local economic and industrial base of many regions around the country. Given these economic conditions, I would like to take this opportunity to pay tribute to a longstanding and very successful program that has been providing assistance to the rural poor in the deserts of Arizona and southern California. Known as Portable Practical Educational Preparation [PPEP] this program serves the rural communities of the Southwest by offering literacy and life skills training, GED and ESL classes, and practical education to the disadvantaged residents of the region.

On the occasion of the 25th anniversary of the PPEP program, we can look upon its many achievements and those of its founder, Dr. John D. Arnold. From a young age, John Arnold has taken it upon himself to provide assistance to the working poor and disadvantaged of our region. At age 16 he had his own church-bus ministry that provided social services, food, clothing, etc., to Braceros (Mexican farm laborers). After 10 years of working directly with the migrant workers, John Arnold approached community leaders for support to initiate a mobile, or itinerant, school to serve the various labor camps. Thus emerged Project PPEP. This school was unique because it went to where the people worked and lived, and provided instruction in practical educational experiences which prepared the farmworkers in basic survival skills. In PPEP's humble beginnings, with a $19,000 annual budget, John was the bus driver, mechanic, janitor, and teacher.

Today, PPEP has grown with rural community support to serve farmworkers and rural poor throughout Arizona, the Navajo Nation and the Imperial Valley in southern California. During this, the 25th anniversary of PPEP, 10 million people will benefit from their services. Because of this success, dozens of third world countries have been advised by the State Department to examine PPEP's rural self-help projects.

To point directly to one successful program sponsored by PPEP, I would draw my colleagues' attention to an ambitious program called Micro Industry Credit Rural Organization [MICRO]. Through MICRO, economically disadvantaged residents of these areas can receive loans to start their own small busi-

nesses. As an outgrowth of the PPEP program, MICRO's purpose can best be summed up by its mission statement—"To enhance family self-sufficiency and quality of life by facilitating the development, growth, and participation of family-based micro and small business enterprises in their local economies". MICRO seeks to assist the disadvantaged by having them rely on their own hard work and ingenuity, not on seemingly endless government handouts.

There is increasing evidence that small businesses, known as microenterprises, are an important option for many of the unemployed and working poor today. Microenterprises are businesses that are usually family-owned, employ 10 or fewer people, but are too small to get bank financing.

The success of the program to date has been phenomenal. Business loans of $500 to $10,000 have been provided at market interest rates to nearly 400 small business owners, with a default rate of less than 3 percent. MICRO clients have created an estimated 400 jobs in the rural areas of the Southwest, fostering the American tradition of free enterprise among our Nation's disadvantaged citizens.

I would like to submit for the RECORD two articles detailing the success of John Arnold, PPEP, and the MICRO program, one from the Christian Science Monitor, the other from the Arizona Daily Star. In honor of their 25th anniversary, I commend the attention of my colleagues to project PPEP and the microenterprise concept. I believe that programs demonstrating this kind of success rate deserve our attention and support.

[From the Christian Science Monitor, July 30, 1991]

POOR TAKE MICRO-STEPS OFF WELFARE

(By Clara Germani)

When Catalina Barajas's husband left her to raise the last three of seven children alone, she was forced onto welfare and into public housing. But to make ends meet, she knew she was going to have to find another means of income.

Going out and starting a business was not the first thing she thought of—nor would it be the first thing the United States welfare system would prescribe for the former farm worker, who speaks only Spanish and has minimal business qualifications.

What Mrs. Barajas didn't recognize, until the Micro Industry Credit Rural Organization (MICRO) stepped in to show her, was that the small sewing jobs she had taken in for years were a business she could develop.

It's this kind of entrepreneurial seed that MICRO, a Tucson, Ariz., nonprofit development group, cultivates through small, business loans. On collateral as small as a wedding band or a color television, low-income and disadvantaged people, who would qualify quicker for welfare than a traditional bank loan, can get business loans as small as $500.

Barajas's first loan of $500 three years ago allowed her to buy more fabric at a lower price than she was used to. This increased her profit on the brightly colored bedspreads she makes. Demand for her work increased, so she bought a better sewing machine with her second loan of $1,000. Having paid off her first loans, with a third loan of $2,000 she was to travel to Los Angeles from this remote area to buy cheaper fabric and supplies.

"I never thought someone would lend me the money," says Barajas. "This has motivated me to work more, whereas before I had to take from my food money to invest and sometimes there just wasn't any." She would never have considered asking a bank for money after having been turned away by a local bank when she tried to open a savings account with a crisp $20 bill and was told it wasn't enough.

Microenterprise development in many cases can substitute a ladder of opportunity for the dependency fostered by the welfare safety net, says Robert Friedman, founder and chairman of the board of the Corporation for Enterprise Development, a Washington policy advocacy group that also sponsors demonstration microenterprise projects.

"Microenterprise [development] crosses both liberal and conservative lines," he says. For conservatives, he adds, "it's quid pro quo. It's not a handout. And for that part of the liberal establishment that simply looks at income redistribution, it works."

Microenterprise, which is free enterprise in its most basic and spontaneous form, is a sort of business counterpart to subsistence farming: It exists in pockets of poverty all over the world where the unemployed must use their wits to survive. The informal sector—that market in which microenterprise exists off the books, outside taxes and government regulation—is believed to constitute 30 to 50 percent of the economies of developing nations.

In Latin America, for example, Peruvian economist Hernando de Soto's studies of the informal sector (documenting the capitalistic nature of upward mobility among squatter settlements in Lima) became the inspiration for a whole school of international development that has grown up around microenterprise.

The Grameen Bank in Bangladesh, on the other hand, has been the international model for how to loan to the poor. It pioneered the idea of giving credit—in amounts as little as $50—to the poor when it began offering loans in 1975 to peasant women who made bamboo furniture. Today, reaching perhaps 500,000 people, the bank offers loans to small groups of people who are trained together in basic business procedures, divide the money among themselves for their own businesses, and are responsible for the collection and reinvestment of the money. The incentive of future loans maintains discipline within the groups, which have a repayment rate of 98 percent.

The United States has dedicated an increasing amount of foreign aid to microenterprise development in which all kinds of businesses—from pushcart peddlers to small factories—are offered credit contingent on completing basic business courses. Microenterprise spending overseas by the US Agency for International Development has grown from $85 million in 1990 to an expected $137 million next year.

It's funny that we have to learn from third-world countries about microenterprise," says US Rep. Tony P. Hall (D) of Ohio, chairman of the House Select Committee on Hunger. "Over the years we've really pushed it in aid projects overseas, but our own people have not even heard of it."

Convinced that microenterprise "is part of the answer" to changing welfare dependency to economic self—sufficiency, the congressman has introduced microenterprise provisions to the Job Training Partneship Act. The proposed legislation adds self—employment training to courses the states are required to offer in federally funded job training programs. Future, the legislation would fund 10 micro—lending demonstration projects of $500,000 each.

Representative Hall is also pushing to win microentrepreneurs exemptions to rules that limit assets and income of recipients of federally funded housing, medical care, and welfare.

"We penalize people [for] being independent from proverty," Hall says.

For example, recipients of Aid to Families with Dependent Children are limited to income of 185 percent of the state—defined level of need, and assets are limited to $1,000. Those rules effectively prevent small—business growth because assets cannot be built to improve a business, he says.

Most of the private nonprofit programs already lending to American microentrepreneurs teach clients how to get licensed and pay business taxes. But many borrowers, like Mrs. Barajas in the MICRO program, continue to operate informally — unlicensed and not paying taxes. Barajas estimates that in the best of months she clears $400 with her business. That amount could be enough to disqualify her from public assistance, yet alone it wouldn't be enough for economic self—sufficiency.

Just how widespread or successful micro development can be in the inner city or rural areas is uncertain, say economists.

The image of the "the Lone Ranger in economic development" may fit the free enterprise theme Americans would like to inject in poverty programs, says Michael Piore, professor of economics at the Massachusetts Institute of Technology in Cambridge, Mass. "But it's crazy to think somebody sitting in a neighborhood is going to be profitable if there's no one around them [like a supporting network of other profitable businesses and lending institutions]."

Also, few of the 100 micro lending operations that have sprouted around the US in the past five years actually are breaking even because of the high cost of the training that goes along with lending, explains Mr. Friedman of the CED. While micro lending—so far funded by private charities and grants in the US—may never generate a profit, he suggests that it is an investment with social payoffs, including getting low-income people off public assistance and creating business role models in poor communities.

The five-year experience of MICRO in its operations in Arizona and California convinces executive director and founder Frank Ballesteros that "this microenterprise philosophy would work anywhere.

"You'll find five to seven homebased businesses in any block [of an urban area], people earning second incomes out of their homes by selling dresses, taking care of a child for someone else, fixing hair . . . ," Mr. Ballesteros says.

While MICRO has yet to break even, he says, the benefits of the $1 million loaned to 300 businesses in the past five years include the creation of over 400 jobs. Loan defaults are about 2.5 percent and more than 85 percent of the borrowers are still in business, generating savings and employment.

[From the Arizona Daily Star, June 30, 1991]

FREE-TRADE RICHES IN STORE FOR TINY FIRMS TOO

(By Jane Larson)

Free trade isn't just for multinational corporations, but can mean greatest sales for the hundreds of "microbusinesses" on both sides of the U.S.-Mexican border, a Tucson-based development group says.

Representatives of the Micro Industry Credit Rural Organization (MICRO) have been meeting with Asesoría Dinámica para la Microindustria of Monterrey, in the Mexi-

can state of Nuevo León, to set up ways in which the various businesses financed by the two organizations can begin to trade with each other.

"If they're not organized, they will fall through the cracks" when trade with Mexico liberalizes, John D. Arnold says of smaller firms. Arnold is chief executive officer of Project PPEP (Portable Practical Education Preparation), a social service organization that launched MICRO in 1986.

Microbusinesses are those that employ 10 or fewer people and are too small to get bank financing. MICRO gives them management advice and loans them anywhere from $500 to $10,000, with the average loan being $1,600.

Some 154 businesses in rural Arizona and California are operating with 615 loans from MICRO, Frank Balles- teros, executive director, says. He estimates that MICRO clients have created 400 jobs.

MICRO and its $1 million revolving loan fund are financed by 20 different sources, led by grants from the Ford Foundation, the Stewart Mott Foundation and Hitachi Ltd.

The Mexican organization, nicknamed Admic, has made loans to about 1,200 businesses around Monterrey, Arnold says.

It is about 12 years old, operates mainly on Mexico's eastern seaboard and gets funds from the World Bank and other public and private sources, he says.

So far, PPEP and MICRO have introduced Admic to leaders of three Sonora groups that could work with Admic when and if it expands there. The groups are Casa de la Cultura, operators of the convention center of Hermosillo; Fundacai of Ciudad Obregon, an affiliate of the Save the Children Federation; and Union Campesino, a farmworkers' cooperative based in Alamos. ACCION International, an umbrella group that provides technical assistance, also is helping Admic expand.

The groups will meet again in July to lay out their ideas to government officials and political leaders in Hermosillo.

The next move is to develop a catalog of products and services offered by businesses on each side of the border, so the microbusinesses can buy from each other. PPEP and MICRO are asking the businesses to develop price and product lists to publish in the catalog.

Mexican businesses have a range of products that could be sold in the United States, Arnold says, from clothing and candy to ironwork, furniture, leather, spices and saddles.

The approximately 200 members of MICRO's five Microbusiness Associations on the U.S. side could sell computers and other technical products, clothing and auto parts in the Mexican market, he says.

The businesses also might be able to barter goods and services. A tanner, for example, could provide hides to a cobbler who could make shoes for the tanner's family, Arnold says.

Simply making the microbusiness owners aware of each other's products and services will not be enough. "We have to train them to deal internationally, to negotiate," he says. Besides developing the catalog, the Tucson organizations want to hold workshops to show the owners how to best arrange their export-import deals.

Arnold says businesses, families and cultures on both sides of the border have been trading with each other for centuries, and that he expects the proposed free-trade agreement will simply lift the restrictions.

President Bush last month won approval from Congress to continue negotiating with Mexico on tariff reductions and other spurs to economic growth. Although the Bush administration has until 1993 to produce a free-trade agreement that Congress can reject but not amend, economic development groups, businesses and others already are gearing up for the expected surge in international trade.

Arizona's exports to Mexico doubled, to $750 million a year, since Mexico joined a fair-trade organization four years ago.

TRIBUTE TO LEVI GARRETT

HON. RICHARD H. BAKER

OF LOUISIANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 12, 1992

Mr. BAKER. Mr. Speaker, I rise today to recognize Mr. Levi Garrett from Anacoco, LA. Levi is a talented 13-year old performer who last year was a 4-star winner on the television show, Star Search. This is all the more remarkable since as a young child, Levi was diagnosed with terminal cystic fybrosis. He has overcome enormous odds, and his courage is an inspiration to us all.

Mayor of Leesville, LA, Jim Shapkoff, will proclaim August 15, 1992 as Levi Garrett Day in Leesville and will present Levi with a key to the city.

Levi Garrett guest starred with Mel Tillis at the Mel Tillis Theater in Bronson, MO during the 1992 season and has also signed to perform in the 1993 season. Levi's mother, Connie Sims, has always managed his career.

I want to wish Levi continued success with both his professional and personal life.

TRIBUTE TO STAN HILLIARD

HON. DICK SWETT

OF NEW HAMPSHIRE

IN THE HOUSE OF REPRESENTATIVES

Wednesday, Aug. 12, 1992

Mr. SWETT. Mr. Speaker, I rise today to pay tribute to one of the 2d District's most admired citizens, Mr. Stan Hilliard of North Woodstock, NH.

Mr. Hilliard has been the proprietor of Natureland and Hilliard's Candy Store for 30 years. Throughout his business career, Stan Hilliard has devoted much of his free time to volunteer activities. He was selectman of the town of North Woodstock for 12 years, a leader of the local economic development group, and founder of a summer recreation program for children from the Lincoln and North Woodstock region.

Mr. Hilliard was the incorporator of the Lincoln-North Woodstock Chamber of Commerce in 1959 and has served as its president for the past 10 years. He has also served with distinction as president of the North Woodstock Rotary, the White Mountain Attractions, and the Plymouth State Fair.

Mr. Hilliard's dedication to bettering his community deserves tribute. Tragically, Mr. Hilliard has been stricken with cancer. Mr. Speaker, I would like to personally thank him for his work and ask that my colleagues hope and pray that his health will soon return so that our country can continue to enjoy the good works of his volunteer crusade.

INTRODUCTION OF THE FILIPINO VETERANS' EQUITY ACT OF 1992

HON. NANCY PELOSI

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 12, 1992

Ms. PELOSI. Mr. Speaker, today I am introducing the Filipino Veterans' Equity Act of 1992, legislation that will help remedy a half century injustice to Filipino Veterans of World War II, tens of thousands of whom fought and died for America. In 1942, Congress passed a law granting automatic citizenship to all aliens, including Filipinos, who served in the U.S. Armed Forces during the war. The Filipino veterans, as a class, were unfairly discriminated against when American citizenship processing was arbitrarily withdrawn from them in 1946.

In 1990, 45 years later, Congress included Section 405 in the Immigration Reform Act, to enable Filipino veterans who fought for the American side during World War II to apply for naturalization. This was a significant step toward redeeming the dignity of the forgotten Filipinos, but several important issues were not addressed in the act.

Section 405 is scheduled to expire on November 29th, 1992, Of the 60,000 veterans that the INS estimated would file for naturalization, only about 12,500, or 21 percent have applied. The reasons for this small number include: a lack of dissemination of information about the application process; the expense of coming to the U.S. for the interview process; and, the fact that the INS took 1½ years to put in place the regulations for the process and delayed interviewing applicants until October, 1991. My bill would enable eligible veterans to be interviewed and take the oath of naturalization in the Philippines. Because the majority of the Filipino veterans live at the poverty level, and many are already very old, requiring them to travel to the U.S. imposes a severe financial and physical burden. They deserve better.

The Filipino Veterans' Equity Act of 1992 would also provide for a special immigrant status for immediate relatives of Filipino veterans. If the Filipino veterans had not been deprived of the naturalization process in 1945, their children would already be U.S. citizens today. Currently, the veterans must petition to bring their children here, which takes up to 15 years. These brave veterans and their families have waited long enough.

Mr. Speaker, here is our opportunity to keep a promise to people who were our true friends in time of need. Here is our opportunity to right a 50 year wrong. I urge my colleagues to support the Filipino Veterans' Equity Act of 1992.

RECOGNITION OF WILLIAM E. HANNA'S ROLE IN RESTORATION OF GREAT FALLS BRIDGES

HON. CONSTANCE A. MORELLA

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 12, 1992

Mrs. MORELLA. Mr. Speaker, I rise today to recognize William E. Hanna, Jr., a member of the Montgomery County, MD Council, whose vision and persistence have been responsible for the restoration of a scenic delight on the Potomac River, a view of the Great Falls that had not be seen by the public since the Olmstead bridges were destroyed by Hurricane Agnes 20 years ago. Bill Hanna, an early dreamer of the project, has been working for the past 7 years to enable visitors to once again be able to fully appreciate the view of cascading water, which orginates in Pennsylvania, flows through West Virginia and Maryland eastward to the Nation's Capital. On July 17, this dream was realized with the official opening of the five Olmstead bridges at Great Falls.

Olmstead Island is located in the Potomac River within the boundaries of the Chesapeake & Ohio Canal National Historical Park, a park with more than 3 million annual visitors. The island provides the only full view of the falls, although our Virginia neighbors do not always agree. All agree, however, that the view from the Maryland side provides one of the most spectacular views on the East Coast. However, the five wooden bridges that carried thousands of visitors for over 100 years to the outlook had remained crushed and in shambles since the 1972 hurricance.

Councilman Bill Hanna had two hurdles to overcome to complete this project, and it took him 7 years to obtain both the necessary funding, and to enlist the support from the Park Service, which was understandably fearful for the safety of visitors heading to the Great Falls Outlook. Despite unprecedented cooperation among Federal, State, county and private interests, coordination that is further tribute to the leadership of Bill Hanna, costs kept rising as the plans for the footbridges progressed, and there were times when funding for the project was seemingly unobtainable. But Bill Hanna perservered. At one point, the request for proposals had gone out, but the project was short $20,000. Undaunted, Bill appealed to the public and the response was overwhelming.

Now, barely a month after the opening of the bridges, the number of visitors is far beyond the most optimistic expectations. On weekends, with parking lots filled, latecoming hikers will find themselves parking and walking 4 miles to the overlook and back. Memories of past visits, sentimental walks, romantic proposals, and family stories, have become part of the lore of Great Falls.

I am honored to recognize Bill Hanna's accomplishments, and I am honored to have worked with him on this project. He has given all of us who live in or visit the Washington area a glimpse of a very beautiful and inspiring sight.

SUPPORT FOR H.R. 5466

HON. TERRY L. BRUCE

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, August 11, 1992

Mr. BRUCE. Mr. Speaker, thank you for the opportunity to speak on behalf of the protection of small community airline passengers. I would ask each of you here today to give your full support to H.R. 5466, the Airline Competitiveness Enhancement Act, which will help prevent the erosion of this essential air service program while saving taxpayer dollars.

Although Federal law is supposed to protect small town commuter operations from getting squeezed out by free market forces, communities around the country like Danville, Charleston-Mattoon, Quincy, and many more are losing their vital link to high density airports.

The U.S. Government has been encouraging small manufacturers such as Mattoon Precision Manufacturing to compete in export markets as a way of reducing our trade deficit, but then we don't give them basic tools needed to compete such as air transportation.

The Essential Air Service Program began in 1978, when airline deregulation took effect to ensure that small communities would continue to be linked to the Nation's air transportation system.

This legislation is necessary to overcome policies of the Department of Transportation which has refused to exercise its authority under existing law to provide slots needed for essential air service, particularly in the case of certain communities that lost their service during fiscal year 1990.

Gentlemen, in these hard economic times when small communities must compete even more to bring vital jobs to their towns; we must continue to provide this basic service, so important to rural commerce.

"WELCOMING THE PACIFIC ECONOMIC COOPERATION CONFERENCE

HON. ROBERT J. LAGOMARSINO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 12, 1992

Mr. LAGOMARSINO. Mr. Speaker, on September 23–25, 1992, the Pacific Economic Cooperation Council will hold its Ninth General Meeting in San Francisco.

The Pacific Economic Cooperation Council [PECC] mission is "To promote the acceleration of economic growth, social progress and scientific and technological development in the region * * * in the spirit of partnership, fairness, and genuine cooperation." it is a special tripartite organization of leaders from government, business, and academia from 20 Pacific rim nations and economies, including the United States and Russia. The unofficial status of its participants provides a unique forum for candid exchanges on issues of trade, investment and development.

Every 18 months, PECC holds a general meeting of its members. At these meetings, top economic, finance trade, and investment policy leaders and planners have met to discuss issues to advance cooperation and development. I encourage my colleagues to join me in welcoming the ninth general meeting. There have been tremendous changes around the world and in the Pacific region over the past year and one-half. Multilateral negotiations including the GATT Uruguay round and the North American Free-Trade Agreement, the integration of the European Community as a new economic force, and the continued growth of the Pacific rim's economic power make the general meeting's theme of "open regionalism: a Pacific Model for global economic cooperation" extremely timely. I believe it will significantly support our positive goals of fostering open trade and investment throughout the Pacific rim. The United States has much to benefit from the PECC and its constructive working groups.

As a senior U.S. Representative from California, I also commend the holding of this historic meeting in San Francisco, noting this conference represents the largest gathering of world leaders in the bay area since the signing of the U.S. Charter in San Francisco in 1945. California, and especially the San Francisco Bay area, represents a major center of international business and development, much of it focused on the Pacific rim.

Therefore, I urge my colleagues to join me in welcoming the PECC ninth general meeting and offering our support for productive and successful discussions on economic development and progress within the Asian-Pacific region.

UNITED PENTECOSTAL DELIVERANCE TEMPLE

HON. EDOLPHUS TOWNS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday August 12, 1992

Mr. TOWNS. Mr. Speaker, today I rise to honor the United Pentecostal Deliverance Temple, Inc., which has devotedly uplifted and welcomed members of the community into its doors.

In 1980, evangelist and pastor Rev. Dr. June Montague founded the United Pentecostal Deliverance Temple, Inc. For 8 years it was located on Church Avenue. The elected administrative body foresaw the growth of the church's congregation and relocated to both facilitate and induce an increase in the church's members. Thus, the church soon found itself at its present site on East 49th Street in Brooklyn, NY.

The United Pentecostal Deliverance Temple, Inc.'s administrative body is comprised of a successful group of professionals and achievers ranging from teachers to accountants. Together, they oversee the operations of the church. It was their decision to change the church's original name from the Deliverance Tabernacle of Our Lord Jesus Christ to its present name. In addition, led by Reverend Montague's plans, they intend to build a school for youth and a nursing home for the aged.

Rev. Dr. June Montague, founder and Pastor of the church, has dedicatedly organized

the church and reached out to members in the metropolitan area. She has given special attention to troubled young people. In addition to her ministry, Reverend Montague is also a teacher and counselor. She received her Biblical training at Bethel Bible Institute and the New York School of Bible. I commend the United Pentecostal Deliverance Temple, the administrative body, and the congregation, on the success of the church. Their efforts reflect consistent devotion to the betterment and spiritual uplifting of the community.

BURLINGTON PIONEER SPIRIT

HON. WAYNE ALLARD

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 12, 1992

Mr. ALLARD. Mr. Speaker, I rise today to share a community effort in the small town of Burlington, CO, population 2,941. In Colorado 63 counties are federally designated as medically underserved areas. Like much of rural America, Burlington is finding they cannot retain a general practitioner. Specialized care is out of the question. Because the closest medical center is 115 miles away, Burlington's citizens face a burden, but they aren't giving up. Burlington has devised a homegrown solution—a grow-your-own-doctors plan. This innovative community is sending two local students to med school with the stipulation they will practice locally a year for each year of education they receive. Burlington recognizes physicians are more likely to practice in a small community if they were raised in one. This also provides an opportunity for two local students to fulfill their dreams.

Burlington designed a formula for success. While every town may not be able to duplicate their idea, everyone, everywhere can benefit from this small town's "can do" mentality.

TRIBUTE TO FRED G. SUMMERS

HON. PETER J. VISCLOSKY

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 12, 1992

Mr. VISCLOSKY. Mr. Speaker, it is with great pleasure that I rise today to pay tribute to an exceptional individual from northwest Indiana, Mr. Fred. G. Summers. Freddie, who inspired his colleagues through his outstanding service and dedication while serving as Business Agent for the Bridge, Structural, and Ornamental Ironworkers, Union Local 395, has recently been designated general organizer for the International Association of Bridge, Structural, and Ornamental Ironworkers in Washington, DC.

Freddie began working for the Ironworkers Union in the fall of 1968, 1 year after graduating from Calumet High School. After 16 years as an ironworker with the union, Freddie sought to further his career. The dedication and commitment which he exhibited and the goodwill that he shared with his fellow employees, led to his election as Business Agent for Local 395 in 1984.

As business agent, Freddie proved that he was, indeed, a wise selection. His efforts on behalf of local 395 demonstrated his devotion to the promotion of the ideals of organized labor. His diligence and unselfish demeanor as business agent did not go unnoticed and he was rewarded with a promotion to general organizer at the international level.

Aside from his efforts on behalf of local 395, Freddie made certain that he also remained active within the community. In addition to serving as a trustee for pension funds, he served two terms as vice president of the Indiana Building Trades and was also able to attend, as a delegate, every Democratic National Convention since 1976. Freddie also paid very special attention to the youngsters of northwest Indiana, volunteering his time to coach little league and assist with the track, football, and baseball programs at Merrillville High School.

Freddie has been given the special opportunity to promote the ideals of the American worker and I am confident that he will play an instrumental role in strengthening the labor organization on the internationlal level. Freddie's commitment and devotion to local unions, to organized labor and to the community, serves as an inspiration to all of us. He is, indeed, someone we can all look up to.

INTRODUCTION OF LEGISLATION TO DESIGNATE THE MARTIN LUTHER KING, JR., FEDERAL BUILDING

HON. GREG LAUGHLIN

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 12, 1992

Mr. LAUGHLIN. Mr. Speaker, I rise today to introduce legislation which designates a Federal building at 312 South Main Street in Victoria, TX, as the "Martin Luther King, Jr., Federal Building."

This decision to name the Federal Building after the former civil rights leader is a true reminder of the influence that Dr. King was for all of us, not just Americans of African descent, but Americans whose origins can be found in all corners of the globe.

The unnamed Federal building is a downtown landmark, and is visited by hundreds and seen by thousands of Victoria residents and visitors on a daily basis. A memorial to Dr. King placed at this site will provide continuing inspiration to all who visit it, particulary to the hundreds of young men and women in the community.

These young people have no personal memory of the condition of civil rights in America before Dr. King, nor of the struggle he endured to change the rights of all Americans in the country.

Mr. Speaker, it is my hope that the young people in this Victoria community who visit this building will come to understand that it recognizes not only the contributions of this great leader, but also two very basic principles necessary for the healthy functioning of our society.

The first is that change, even very fundamental change, is to be achieved through nonviolent means. This is the path down which we should go as a Nation in resolving some of our most difficult problems.

The other basic principle is that the reconciliation of the races, the inclusion into the mainstream of American life of all its people, is essential to the fundamental health of this Nation.

Mr. Speaker, Dr. King helped us to see that we can bring down all barriers placed in our way. This great undertaking was not without pain, and is not yet complete, but is transforming this Nation for the better.

Mr. Speaker, Martin Luther King, Jr., dedicated his life to achieving equal treatment and enfranchisement for all Americans through nonviolent means.

Therefore, Mr. Speaker, you can understand why I rise in such strong support of this bill which will name the Federal building in Victoria as the "Martin Luther King, Jr., Federal Building."

A TRIBUTE TO THE CLEARVIEW JEWISH CENTER IN WHITESTONE, NY

HON. GARY L. ACKERMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 12, 1992

Mr. ACKERMAN. Mr. Speaker, I rise today to pay tribute to the Clearview Jewish Center in Whitestone, NY. The center will be celebrating its 40th anniversary at a gala dinner on September 12.

Forty years ago, families moving to Clearview felt an acute need for a spiritual center in their community. Many of those in the community had been led there to follow the American dream, leaving their old neighborhoods to purchase homes in Clearview. But this new neighborhood was not complete without somewhere to worship, to add the necessary religious anchor which holds in place any community.

So in 1952, a group met at the home of Dr. Abraham Mullin and founded a new congregation. In the early days they held services in a store, and conducted the high holidays under a tent, but by 1958, a fine new building was complete on the aptly named Utopia Parkway. Forty members volunteered to come in and paint the new building, and the Clearview Jewish Center has been there ever since.

The center has flourished under a progression of dedicated rabbis, hardworking directors, and devoted members. The synagogue has a senior center, conducts adult education classes, and is home to a busy men's club and sisterhood. Politicians, doctors, and academics have come to speak to the members at the center. The center has an Israel Bond breakfast every year, and the good people of Clearview have regular fundraising events for charitable works.

Above all, of course, the Clearview Jewish Center is a place of worship. The dedication of its members, the vigor of its various activities, and its central place within the community, are only the outward manifestations of a spiritual existence. The center provides a calm oasis of prayer and contemplation in an often loud and

fast-paced city. At a time when politicians speak so much of family values, this synagogue speaks volumes about the importance of family and the belief in God in our communities.

Recognizing the coming gala dinner, I would like particularly to congratulate Mr. Abraham Schwartz, first president of the center and still its ritual chairman; current president Jack Eisenberg; Rabbi Cecil Walkenfeld; and Toby Oknowsky, the 40th anniversary chairperson.

On September 12, the 350 families who make up the congregation will celebrate the longevity and vitality of their synagogue. Mr. Speaker, I call on all my colleagues in the House of Representatives to join me in honoring the Clearview Jewish Center for 40 years of service to the community.

JULIUS "JULES" MINTZER

HON. THOMAS J. BLILEY, JR.

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 12, 1992

Mr. BLILEY. Mr. Speaker, I rise today to commend and recite the many outstanding lifetime achievements amassed by Julius Mintzer of Richmond, VA.

Julius "Jules" Mintzer, whose professional and volunteer experience in Richmond spans about 40 years, was recently presented with the Jewish Community Federation's Distinguished Community Service Award, the most coveted honor within Richmond Jewry. Hortense Wolf, a former Federation president, who made the presentation, described Jules "as having served meritoriously, profoundly, influencing our Jewish community and its activities and institutions".

A remarkable individual of vision, initiative and integrity, Jules' academic degrees include a bachelor of education, a master in sociology and a master in social work. His professional career as a trained social worker began in 1935 with a position in Westchester County, NY, with the Division of Old Age Assistance. He resigned in 1941 to affiliate with the American Service Institute in Pittsburgh. His career was interrupted by "greetings" from the President which led to three and a half years in the Army. He earned sergeant stripes and was honorably discharged in 1945 to join the United Nations Relief and Rehabilitation Agency, serving as the assistant director of Camp Fohrenwald in the American Zone of Germany. Over 5,500 survivors of Nazism lived in this camp. His principal responsibilities included providing quality hospital, medical, nursing and dental care, as well as meeting the religious needs of people who were deprived for years. Additionally, he established a school system, created fire and police brigades and a recreational program. The long arduous hours and heavy responsibilities took their toll and after one year, he returned home during the summer of 1946.

Following a period of rest, he joined the Jewish Community Council of Dayton, OH, as director of Social Services and the Community Relations Division. In 1949, he moved to Cincinnati to become the assistant director of the Jewish Welfare Fund. There he developed a leadership training program which became the model for similar projects in many communities, lectured at Hebrew Union College on "Jewish Community Organization" and developed an in-service training program for Jewish community professionals in the city.

In 1953, he was engaged as the executive director of the Richmond Jewish Community Center, subsequently renamed as the Jewish Community Federation of Richmond. He served in this capacity for 25 years, retiring in September 1978.

He enjoyed his retirement for a few short weeks before starting a second carrer—that of being an agency and community volunteer. For the past thirteen and a half years, he has served in that capacity with distinction in many varied responsible positions, disregarding offers of salaried jobs. Few of his colleagues throughout the country can match his record as a volunteer. He has been paid tributes and honored with many awards. They include: (1) President of Temple Beth El. Prior to his election, he had been awarded the Temple's three most prestigious awards—Gerson Memorial Award, Distinguished Worker Award and the Simhat Torah Honor. (2) President of the Rudlin Torah Academy, a Jewish day school, having an extensive secular and Judaic curriculum. (3) Elected vice president of the Seaboard Region of the United Synagogue of America, 1987–88. (4) Chairman, Jewish Community Center Forum Series, 1980–84. He received the Center President' Cup for outstanding service in 1984. (5) Editor (now editor emeritus) of the Regional ADL's Quarterly Bulletin, 1980–84. (6) Produced a commemorative journal on the occasion of the 50th anniversary of the Jewish Community Federation, 1985. (7) Produced a Golden Jubilee Journal for Temple Beth El in honor of its 50th Anniversary. (8) Produced a special journal for a gala event sponsored by the Beth Sholom Home of Virginia, 1983. (9) Appointed by the Governor of the Commonwealth of Virginia to the Citizens Advisory Council for the State Department of Volunteerism, 1982–86. (10) Appointed to the Citizens Advisory Council of the Richmond Juvenile and Domestic Relations Court, serving as chairman during the last 2 years of his tenure, 1978–86. (11) Taught in the religious schools of Temple Beth El and Congregation Beth Ahabah. (12) Received the Distinguished Community Service Award by the Jewish Community Federation of Richmond, May 20, 1990. (13) Presented with the Lion of Judah Award by the Israel Bond Organization for leadership abilities and volunteer service on behalf of Israel and the Bond organization, June 1988.

Therefore, it is a rare privilege for me as the Representative of the Third Congressional District of Virginia to again applaud Jules Mintzer for his many accomplishments as a civic leader, one who has given of his time and energy without expectation of monetary gain, but only to serve well his fellow man and for others who will follow.

INTRODUCING THE SHELLFISH SAFETY ACT OF 1992

HON. JOLENE UNSOELD

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 12, 1992

Mrs. UNSOELD. Mr. Speaker, if one is to believe recent media reports, millions of Americans sitting down for seafood tonight will dine on an appetizer of nervousness and a main course of fear.

The media coverage has been extensive. "CBS Evening News" with Dan Rather did an expose on seafood safety. Consumer Reports asked, "Is Our Fish Safe to Eat? Time wondered, "Is Your Fish Really Foul?" The Los Angeles Times, New York Times and hundreds more published stories and opinion pieces triggered largely by an aggressive campaign from a single consumer group.

It's been an effective campaign, generating a wave of public interest in seafood safety and stirrings within Congress to strengthen existing seafood safety programs. And that's not all bad.

But our first step should be to distinguish fear from fact and to separate matters of public perception from issues of public health. For example, data from the Center for Disease Control [CDC] shows that seafood is 10 times safer to eat than chicken.

Still, I agree with those who say that even one avoidable illness from seafood contamination or poisoning is one too many. The question is how to make a safe product even safer. No amount of surprise processing plant inspection will protect consumers from shellfish grown in low-quality water.

The greatest challenge for regulators—and the industry—is ensuring the safety of raw shellfish. Shellfish are filter feeders, so the quality of the water in which they are grown is every bit as important as the quality of the product and the processing plants.

Over the last year I've worked with the industry, as well as regulatory officials, to decide how we can improve the Nation's shellfish sanitation program and restore consumer confidence in what already is a safe, wholesome, nutritious product.

Today, I am introducing legislation that attempts to help the industry, those who regulate it, and most of all, the consumer. Here's what it does:

Directs the Secretary of Health and Human Services to convert Federal guidelines into Federal regulations.

We've learned that controlling sanitation in seafood processing plants doesn't automatically make seafood safe. The quality of the environment in which fish and shellfish are harvested plays just as big a role. These harvest waters often are under State control, and State officials rely on Federal guidelines established through the Interstate Shellfish Sanitation Conference [ISSC]. This group plays an important technical role in developing shellfish standards, but we need to turn voluntary guidelines into enforceable regulations to give regulators the authority they need to crack down on shippers and harvest areas.

Requires imported products to meet the same standards as shellfish products produced in this country.

According to the National Academy of Science, 50 percent of the shellfish imported into this country and eaten by American consumers is exempted from the most important public health standard in the shellfish industry: water quality. While shellfish harvested in the United States must meet strict water quality standards, incredibly, there is often no such requirement for imported products.

I am proposing to change this by requiring foreign countries to enter into a memorandum of understanding that ensures the importing country has a shellfish safety program at least equivalent to ours.

Requires State programs to develop management plans which would be approved by the U.S. Food and Drug Administration.

All States would have to work with the FDA and agree on a level of monitoring that protects the public. If a State does not act, the FDA could close or restrict harvesting.

Encourages growers to maintain clean harvesting areas.

Individual States would be asked to monitor water quality in their growing areas. The Secretary of Commerce, in cooperation with other agencies, would maintain a list of harvest restricted growing areas and take steps to restore these areas.

To keep this industry alive on a national level, we need to do more than raise unnecessary fears. Consumers deserve a Federal program that protects their safety, and the industry needs enforcement. But neither side benefits if we overreact. With the Shellfish Safety Act of 1992, I'm hoping to keep shellfish on the dinner plates—where they belong—and off the front pages.

WILD BIRD CONSERVATION ACT

HON. ANTHONY C. BEILENSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 12, 1992

Mr. BEILENSON. Mr. Speaker, I rise in strong support of H.R. 5013, the Wild Bird Conservation Act, legislation which will bring to an end the environmental devastation and cruelty associated with the trade in wild exotic birds to supply the pet industry.

I joined my friend and colleague from Massachusetts, Mr. STUDDS, in introducing the original legislation on this issue, H.R. 2540 and H.R. 2541, in June 1991, and I want to commend the gentleman and his staff at the Subcommittee on Fisheries and Wildlife for their good work in bringing H.R. 5013 to the floor today.

The international trade in macaws, amazons, cockatoos, toucans, African greys, and other exotic birds to supply the demand for house pets in an appalling practice which, because it is largely unregulated, is prone to an alarming degree of cruelty. Crammed into shipping crates with little air, food, water of freedom to move, millions of birds—up to one-half of all birds caught in the wild by some estimates—die even before leaving their country of origin.

In addition, of the nearly 7 million birds which reached the United States over the last 10 years, nearly one in six was either dead on arrival or died of desease or stress while in quarantine as a result of inhumane conditions during transit. Horrifying as these rates of mortality are, they are an accepted cost of business for most bird traders.

In addition to great cruelty, the wild bird trade has caused devastating declines in populations of some of the world's most beautiful birds. Nearly one-quater of the world's 300 parrot species are risk of extinction— some, such as the beautiful South American macaw, may already be beyond any hope of recovery. Others, such as the blue-fronted amazon, may soon be eliminated from large portions of their native habitat.

Perhaps most alarming of all is that half of the birds taken from the wild each year belong to species listed as threatened under the Convention on International Trade in Endangered Species, the international treaty which governs wildlife trade.

Equally disturbing is the extensive environmental destruction which often accompanies the taking of wild birds, as trees and other vegetation are destroyed to locate birds inhabiting tropical rain forests and other sensitive ecosystems. In addition, since parrots and other rain forest birds are known to play a principal role in the dispersal of seeds and pollination of plants, more research needs to be done on the potential adverse effects of removing essential species from the rain forest ecosystem.

The true extent of the damage the bird has wrought on bird populations and their habitats is still unknown, because most exporting countries lack the resources necessary to assess the impact of unregulated trade or to provide adequate protection for their wildlife. But although more than 100 countries have laws banning the export of wild exotic birds, unless consuming countries, such as the United States, agree to prohibit imports, these countries are powerless to stop the trade.

H.R. 5013 will bring an end to this exploitative trade and replace it with viable, humane, and well-regulated captive-breeding industry, which will meet the demand for house pets, discourage smuggling, and help ensure the survival of the most endangered species.

In a sense this bill is as much about ourselves as it is about the birds. Here is one more example of our collaboration in the extinction of some of our fellow creatures for the purpose of satisfying not our needs, but our very unimportant and selfish personal desires. Passing this bill is, quite simply, the right thing to do. I commend, once again, my colleague and friend from Massachusetts for bringing this to the floor, and urge my colleagues to join us in supporting it.

FIRST WORLD CONVENTION OF THE VIETNAMESE COUNCIL

HON. EDWARD F. FEIGHAN

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 12, 1992

Mr. FEIGHAN. Mr. Speaker, on June 27, 1992, the First World Convention of the Vietnamese Council for a Free Vietnam was held in Washington. The cosponsors were the American Committee for a Free Vietnam and the Joint Congressional Task Force on Vietnam. Over 1,000 delegates from the United States, Canada, Australia, and Europe attended the convention. This was the largest gathering of overseas Vietnamese united behind the common objective of achieving a free and democratic Vietnam.

The convention elected Dr. Le Phouc Sang as chairman of the Vietnamese Council for a Free Vietnam and the council decided to open permanent headquarters in Washington and New York. At the inauguration of the newly elected leaders, a musical gala from top Vietnamese entertainers from Australia, the United States and Europe took place with an audience of 4,000 local Vietnamese residents in addition to the delegates. The council will also publish its own newsletter and establish a Leadership Training Institute for young Vietnamese leaders overseas. Under the leadership of Rev. Andrew Huu Le, the convention established a Human Rights and Religious Affairs Committee to monitor human rights abuses in Vietnam.

Mr. Speaker, the most important step the council took was the passage of resolutions calling for the restoration of human rights, free multiparty elections, the creation of democratic institutions, and strict oberservance of the freedom of speech, press, assembly, and religion in Vietnam.

For the past 2 years I had the opportunity to work with the new and respected chairman, former Senator of the Republic of Vietnam and rector of Hoa Hoa University, Dr. Le Phuoc Sang. I want to congratulate Dr. Le and the Vietnamese Council for a Free Vietnam on their persistent, energetic, and determined effort to promote human rights, freedom, and democracy in Vietnam.

INTRODUCTION OF LEGISLATION TO DESIGNATE AREAS AS COMPONENTS OF THE NATIONAL WILD AND SCENIC RIVERS SYSTEM

HON. WILLIAM J. HUGHES

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 12, 1992

Mr. HUGHES. Mr. Speaker, I am introducing legislation today which designates some 129 miles of the Great Egg Harbor River and its tributaries in the State of New Jersey as components of the National Wild and Scenic Rivers System.

I am very excited about the progress that has been made on Wild and Scenic River designation for the Great Egg Harbor River. Designation for this river began in 1986 when I sponsored legislation authorizing the National Park Service to study the eligibility of the Great Egg Harbor River for inclusion into the National Wild and Scenic Rivers System.

The legislation before us today is the culmination of this 6-year study and represents a consensus between the local municipalities and the county, State, and Federal Governments to cooperate in drawing up local river management plans for the Great Egg Harbor River. Indeed, such a cooperative effort on

such a scale is indicative of the uniqueness of this area and the local and State support it receives.

The Wild and Scenic Rivers Program is not intended to bring dramatic changes to the rivers of the areas surrounding them. It is designed to assure the long-term protection of unique natural resources through sound, locally implemented river management plans. Only the most select free-flowing rivers that have outstanding natural, cultural, or recreational values make up the Wild and Scenic Rivers system.

I am very proud that New Jersey hosts one of these magnificent treasures. Indeed, the Great Egg Harbor River is an integral part of the Pinelands ecosystem and of the rich cultural history of southern New Jersey. In fact, the Great Egg Harbor corridor is steeped in history.

Remains of 17th and 18th century sawmills, papermills, gristmills, early factories, and intact villages are common throughout the watershed. In addition, cranberries and blueberries—two of New Jersey's best known and valuable food crops—are extensively cultivated along the river.

Further, portions of the river have been found to provide breeding grounds and wintering habitat for endangered species such as the peregrine falcon and the bald eagle. The northern harrier and the Pine Barrens tree frog, rare and endangered species recognized by the New Jersey Department of Environmental Protection and the Pinelands Commission, are found throughout the wetlands and bottomland hardwood forests adjacent to the Great Egg Harbor River and its tributaries.

The Great Egg Harbor River also provides a valuable source of recreation, not only for New Jersey, but also for residents of nearby communities in the States of Pennsylvania and Delaware. Some of the best hunting, canoeing, fishing, and birdwatching can be found in this watershed.

Efforts to conserve our natural resources and preserve our environment are often initiated at the grassroots level. The movement to make the Great Egg Harbor River part of the Wild and Scenic Rivers System was started by the late Warren Fox.

Indeed, Warren Fox was responsible for initiating the feasibility study. He was able to demonstrate the real power behind collective action by getting the communities in South Jersey to rally behind him and bring attention to this project. I wish he were here today to celebrate the progress that has been made as a result of his efforts and the commitment of the local communities.

Representatives of the affected communities—Winslow, Corbin City, Hammonton, Buena Vista, Weymouth, Estell Manor, Egg Harbor, Somers Point, Monroe, Folsom, and Hamilton Townships, worked with the National Park Service in the devlopment of the study and are responsbile for this legislation today.

In fact, the management plan for the river will almost exclusively be the product of local thinking, based on the input of local residents, businesses, and elected officials. Authority for implementation of the plan will lie solely at the local level.

The local communities have shown their commitment to the preservation of this very special resource. Now, the onus is on Congress to enact this legislation so that the river will be managed in such a way as to conserve the attributes for which it is being designated. This legislation will provide the authority, oversight, and guidance required for the implementation and enforcement of local management plans designed to maintain the river at this present level of environmental quality.

I commend the Department of the Interior for recognizing the unique qualities of the Great Egg Harbor River and the efforts of the National Park Service for conducting the study that determined the eligibility of the river for inclusion in the National Wild and Scenic Rivers System.

One of my highest priorities during this Congress is seeing this bill enacted into law. I am very excited about the designation of the Great Egg Harbor River, New Jersey's first wild and scenic river, and I solicit my colleagues' support for this legislation. Indeed, support for this bill is an opportunity to preserve one of the truly unique watersheds of the east coast.

SENATE COMMITTEE MEETINGS

Title IV of Senate Resolution 4, agreed to by the Senate on February 4, 1977, calls for establishment of a system for a computerized schedule of all meetings and hearings of Senate committees, subcommittees, joint committees, and committees of conference. This title requires all such committees to notify the Office of the Senate Daily Digest—designated by the Rules Committee—of the time, place, and purpose of the meetings, when scheduled, and any cancellations or changes in the meetings as they occur.

As an additional procedure along with the computerization of this information, the Office of the Senate Daily Digest will prepare this information for printing in the Extensions of Remarks section of the CONGRESSIONAL RECORD on Monday and Wednesday of each week.

Meetings scheduled for Thursday, August 13, 1992, may be found in the Daily Digest of today's RECORD.

MEETINGS SCHEDULED

SEPTEMBER 9

9:30 a.m.
Commerce, Science, and Transportation
To hold oversight hearings in conjunction with the National Ocean Policy Study on implementation of the Fishery Conservation Amendments of 1990 (P.L. 101-627).
SR-253

SEPTEMBER 10

9:30 a.m.
Rules and Administration
Business meeting, to consider pending legislative and administrative business.
SR-301

SEPTEMBER 15

2:30 p.m.
Energy and Natural Resources
Public Lands, National Parks and Forests Subcommittee
To hold hearings on H.R. 3638, making technical amendments to the law which authorizes modification of the boundaries of the Alaska Maritime National Wildlife Refuge, S. 2353, to provide for a land exchange with the city of Tacoma, Washington, and S. 2653 and H.R. 3457, to revise the Wild and Scenic Rivers Act by designating certain segments and tributaries of the Delaware River in Pennsylvania and New Jersey for study for potential addition to the National Wild and Scenic Rivers System and by authorizing the Secretary of the Interior to designate as components of the National Wild and Scenic Rivers System those segments and tributaries that the Secretary determines are eligible for designation.
SD-366

SEPTEMBER 16

9:00 a.m.
Labor and Human Resources
Business meeting, to mark up S. 1622, to revise the Occupational Safety and Health Act of 1970 to improve the provisions of such Act with respect to the health and safety of employees, S. 2837, DES Education and Research Amendments, S. 492, Live Performing Arts Labor Relations Amendments, proposed legislation authorizing funds for the Agency for Health Care Policy and Research, Department of Health and Human Services, proposed legislation relating to breast cancer screening safety, and to consider pending nominations.
SD-430

SEPTEMBER 17

9:30 a.m.
Agriculture, Nutrition, and Forestry
Agricultural Research and General Legislation Subcommittee
To hold hearings on the implementation of the research and education provisions of the Food, Agriculture, Conservation, and Trade Act of 1990 (P.L. 101-624), focusing on the Department of Agriculture's effort to ensure that research activities supported by the Agricultural Research Service, the National Research Initiative, and the Sustainable Agriculture, Research and Education program foster the development of sustainable agriculture systems.
SR-332

Energy and Natural Resources
To hold hearings on provisions of S. 2335, National Beverage Container Reuse and Recycling Act, relating to the energy conservation implications of beverage container recycling.
SD-366

SEPTEMBER 22

9:00 a.m.
Veterans' Affairs
To hold joint hearings with the House Committee on Veterans' Affairs to review the legislative recommendations by the American Legion.
334 Cannon Building